

NORTH CAROLINA REGISTER

VOLUME 34 • ISSUE 03 • Pages 155 – 281

August 1, 2019

I. EXECUTIVE ORDERS	
Executive Order No. 96	155 – 156
II. PROPOSED RULES	
Natural and Cultural Resources, Department of	
Department.....	157 – 158
Occupational Licensing Boards and Commissions	
Certified Public Accountant Examiners, Board of	158 – 162
Medical Board.....	162 – 163
Medical Board/Perfusion Advisory Committee	163 – 164
Real Estate Commission	164 – 165
III. APPROVED RULES.....	166 – 268
Agriculture and Consumer Services, Department of	
Agriculture, Board of	
Health and Human Services, Department of	
Aging and Adult Services, Division of	
Department	
Insurance, Department of	
Code Officials Qualification Board	
Environmental Quality, Department of	
Environmental Management Commission	
Coastal Resources Commission	
Public Health, Commission for	
Transportation, Department of	
Department	
Occupational Licensing Boards and Commissions	
Marriage and Family Therapy Licensure Board	
Medical Board	
Onsite Wastewater Contractors and Inspectors Certification Board	
State Human Resources, Office of	
State Human Resources Commission	
IV. RULES REVIEW COMMISSION	269 – 276
V. CONTESTED CASE DECISIONS	
Index to ALJ Decisions.....	277 – 281

PUBLISHED BY

*The Office of Administrative Hearings
Rules Division
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone (919) 431-3000
Fax (919) 431-3104*

*Julian Mann III, Director
Molly Masich, Codifier of Rules
Dana McGhee, Publications Coordinator
Lindsay Silvester, Editorial Assistant
Cathy Matthews-Thayer, Editorial Assistant*

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.

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

(919) 431-3000

Raleigh, North Carolina 27609

(919) 431-3104 FAX

contact: Molly Masich, Codifier of Rules

molly.masich@oah.nc.gov

(919) 431-3071

Dana McGhee, Publications Coordinator

dana.mcgee@oah.nc.gov

(919) 431-3075

Lindsay Silvester, Editorial Assistant

lindsay.silvester@oah.nc.gov

(919) 431-3078

Cathy Matthews-Thayer, Editorial Assistant

cathy.thayer@oah.nc.gov

(919) 431-3006

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road

(919) 431-3000

Raleigh, North Carolina 27609

(919) 431-3104 FAX

contact: Amber Cronk May, Commission Counsel

amber.may@oah.nc.gov

(919) 431-3074

Amanda Reeder, Commission Counsel

amanda.reeder@oah.nc.gov

(919) 431-3079

Ashley Snyder, Commission Counsel

ashley.snyder@oah.nc.gov

(919) 431-3081

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

(919) 431-3080

Julie Brincefield, Administrative Assistant

julie.brincefield@oah.nc.gov

(919) 431-3073

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

(919) 807-4700

Raleigh, North Carolina 27603-8005

(919) 733-0640 FAX

Contact: Carrie Hollis, Economic Analyst

osbmruleanalysis@osbm.nc.gov

(919) 807-4757

NC Association of County Commissioners

215 North Dawson Street

(919) 715-2893

Raleigh, North Carolina 27603

contact: Amy Bason

amy.bason@ncacc.org

NC League of Municipalities

(919) 715-4000

150 Fayetteville Street, Suite 300

Raleigh, North Carolina 27601

contact: Sarah Collins

scollins@nclm.org

Legislative Process Concerning Rule-making

545 Legislative Office Building

300 North Salisbury Street

(919) 733-2578

Raleigh, North Carolina 27611

(919) 715-5460 FAX

Jason Moran-Bates, Staff Attorney

Jeremy Ray, Staff Attorney

NORTH CAROLINA REGISTER
Publication Schedule for January 2019 – December 2019

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
33:13	01/02/19	12/06/18	01/17/19	03/04/19	03/20/19	04/18/19	05/01/19	09/29/19
33:14	01/15/19	12/19/18	01/30/19	03/18/19	03/20/19	04/18/19	05/01/19	10/12/19
33:15	02/01/19	01/10/19	02/16/19	04/02/19	04/22/19	05/16/19	06/01/19	10/29/19
33:16	02/15/19	01/25/19	03/02/19	04/16/19	04/22/19	05/16/19	06/01/19	11/12/19
33:17	03/01/19	02/08/19	03/16/19	04/30/19	05/20/19	06/20/19	07/01/19	11/26/19
33:18	03/15/19	02/22/19	03/30/19	05/14/19	05/20/19	06/20/19	07/01/19	12/10/19
33:19	04/01/19	03/11/19	04/16/19	05/31/19	06/20/19	07/18/19	08/01/19	12/27/19
33:20	04/15/19	03/25/19	04/30/19	06/14/19	06/20/19	07/18/19	08/01/19	01/10/20
33:21	05/01/19	04/09/19	05/16/19	07/01/19	07/22/19	08/15/19	09/01/19	01/26/20
33:22	05/15/19	04/24/19	05/30/19	07/15/19	07/22/19	08/15/19	09/01/19	02/09/20
33:23	06/03/19	05/10/19	06/18/19	08/02/19	08/20/19	09/19/19	10/01/19	02/28/20
33:24	06/17/19	05/24/19	07/02/19	08/16/19	08/20/19	09/19/19	10/01/19	03/13/20
34:01	07/01/19	06/10/19	07/16/19	08/30/19	09/20/19	10/17/19	11/01/19	03/27/20
34:02	07/15/19	06/21/19	07/30/19	09/13/19	09/20/19	10/17/19	11/01/19	04/10/20
34:03	08/01/19	07/11/19	08/16/19	09/30/19	10/21/19	11/21/19	12/01/19	04/27/20
34:04	08/15/19	07/25/19	08/30/19	10/14/19	10/21/19	11/21/19	12/01/19	05/11/20
34:05	09/03/19	08/12/19	09/18/19	11/04/19	11/20/19	12/19/19	01/01/20	05/30/20
34:06	09/16/19	08/23/19	10/01/19	11/15/19	11/20/19	12/19/19	01/01/20	06/12/20
34:07	10/01/19	09/10/19	10/16/19	12/02/19	12/20/19	01/16/20	02/01/20	06/27/20
34:08	10/15/19	09/24/19	10/30/19	12/16/19	12/20/19	01/16/20	02/01/20	07/11/20
34:09	11/01/19	10/11/19	11/16/19	12/31/19	01/21/20	02/20/20	03/01/20	07/28/20
34:10	11/15/19	10/24/19	11/30/19	01/14/20	01/21/20	02/20/20	03/01/20	08/11/20
34:11	12/02/19	11/06/19	12/17/19	01/31/20	02/20/20	03/19/20	04/01/20	08/28/20
34:12	12/16/19	11/21/19	12/31/19	02/14/20	02/20/20	03/19/20	04/01/20	09/11/20

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

July 3, 2019

EXECUTIVE ORDER NO. 96

DISASTER DECLARATION FOR CATAWBA AND MECKLENBURG COUNTIES

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes authorizes the issuance of a disaster declaration for an emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7) and categorizing the disaster as a Type I, Type II or Type III disaster as defined in N.C. Gen. Stat. § 166A-19.21(b); and

WHEREAS, on June 6, 2019, Catawba and Mecklenburg counties in North Carolina and the contiguous counties of Alexander, Burke, Cabarrus, Caldwell, Gaston, Iredell, Lincoln and Union suffered severe damages as a result of flooding and heavy winds; and

WHEREAS, as a result of the severe weather, Catawba County proclaimed a local state of emergency on June 9, 2019; and

WHEREAS, as a result of the severe weather, Mecklenburg County proclaimed a local state of emergency on June 9, 2019; and

WHEREAS, following these emergency declarations, a joint preliminary damage assessment was conducted by local, state and federal emergency management officials June 18-19, 2019; and

WHEREAS, the undersigned determined that a Type I disaster, as defined in N.C. Gen. Stat. § 166A-19.21(b)(1), exists in the State of North Carolina, specifically in Catawba and Mecklenburg counties in North Carolina and the contiguous counties of Alexander, Burke, Cabarrus, Caldwell, Gaston, Iredell, Lincoln and Union; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), the criteria for a Type I disaster is met if: (1) the Secretary of the North Carolina Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Catawba and Mecklenburg counties declared a local state of emergency pursuant to N.C. Gen. Stat. § 166A-19.22; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.41(a) and (b), if a disaster is declared, the undersigned may make State funds available for emergency assistance in the

form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the residents of the state in the emergency area.

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. Pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), a Type I disaster is hereby declared for Catawba and Mecklenburg counties in North Carolina and their contiguous counties of Alexander, Burke, Cabarrus, Caldwell, Gaston, Iredell, Lincoln and Union.

Section 2. I authorize state emergency assistance funds in the form of grants to individuals and families located within the emergency area that meet the terms and conditions under N.C. Gen. Stat. § 166A-19.41(b)(1).

Section 3. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of the Department of Public Safety, the Secretary of State, and the Clerks of Superior Court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

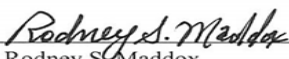
Section 4. Pursuant to N.C. Gen. Stat. § 166A-19.21(c)(1), this Type I disaster declaration shall expire sixty (60) days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of thirty (30) days each, not to exceed a total of one hundred twenty (120) days from the date of first issuance.

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 3rd day of July in the year of our Lord two thousand and nineteen.



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 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

☐ Approved by OSBM
☒ No fiscal note required

CHAPTER 15 - NORTH CAROLINA AQUARIUMS

SECTION .0100 - USE OF NORTH CAROLINA AQUARIUMS

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Department of Natural and Cultural Resources intends to readopt with substantive changes the rules cited as 07 NCAC 15 .0104, .0105, .0401, .0504, and .0603.

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

Proposed Effective Date: December 1, 2019

Public Hearing:

Date: August 20, 2019

Time: 10:00 a.m.

Location: 3125 Poplarwood Ct., Suite 160, Raleigh, NC 27604

Reason for Proposed Action: *The proposed rules are proposed for readoption as part of the existing rules review process. The proposed rules are necessary to carry out the functions of the Aquariums division of the Department of Natural and Cultural Resources.*

Comments may be submitted to: Maylon White, 3125 Poplarwood Ct., Raleigh, NC 27604; phone (919) 623-5106; email maylon.white@ncaquariums.com

Comment period ends: September 30, 2019

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

- ☐ State funds affected
☐ Local funds affected
☐ Substantial economic impact (\geq \$1,000,000)

07 NCAC 15 .0104 PERMISSIBLE ACTIVITIES

Approved private activities may include sales or solicitations if approved by the Aquarium or Pier Director at least 10 days before the date of the activity. No other sales or solicitations by private groups and individuals are allowed on Aquarium or Pier property.

Authority G.S. 143B-135.182(a)(1b)b.; 143B-135.182(b).

07 NCAC 15 .0105 PERMISSION FOR USE

All potential users shall obtain prior written permission from the Aquarium or Pier Director for use of the building or grounds. Approved users of the facilities shall sign a written contract.

Authority G.S. 143B-135.182(a)(1b)b.; 143B-135.182(b).

SECTION .0400 - FIREARMS: FIRES: SMOKING

07 NCAC 15 .0401 LETHAL INSTRUMENTS

Carrying or possessing firearms, airguns, bows and arrows, slingshots or lethal instruments of any kind in the Aquarium or Pier or on Aquarium or Pier property, except by law enforcement officials with jurisdictional authority, is prohibited.

Authority G.S. 143B-135.182(a)(1b); 143B-135.182(b).

SECTION .0500 - CONDUCT: ALCOHOLIC BEVERAGES: PETS: PROPER DRESS

07 NCAC 15 .0504 PETS

Pets are not allowed in the Aquarium ~~buildings.~~ buildings or Pier. Service animals whose handlers attest to the animal's status are allowed inside the buildings. Pets are allowed on the grounds provided they remain at all times under the owners' control and are restrained by a leash. Any animal causing a nuisance or left unattended on Aquarium or Pier property shall be removed by the owner upon the request of the Aquarium or Pier Director. Pet owners shall pick up their animal's waste from Aquarium and Pier grounds and dispose of it.

Authority G.S. 143B-135.182(a)(1b); 143B-135.182(b).

SECTION .0600 - COMMERCIAL ACTIVITIES: SOLICITATIONS: ETC.

07 NCAC 15 .0603 PHOTOGRAPHS

No person shall take photographs, video tapes or movies of the Aquarium or Pier facilities or on Aquarium or Pier property for commercial purposes without the permission of the Aquarium or Pier Director. Permission shall be granted when the activity is conducted at a time and in a manner that does not expose the Aquarium's or Pier's visitors, employees or captive animals to harm.

Authority G.S. 143B-135.182(a)(1b); 143B-135.182(b).

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 08 – BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Certified Public Accountant Examiners intends to amend the rules cited as 21 NCAC 08G .0401, .0403, .0404, .0406, .0409 and repeal the rules cited as 21 NCAC 08G .0405 and .0410.

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

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

Proposed Effective Date: *January 1, 2020*

Public Hearing:

Date: *September 23, 2019*

Time: *10:00 a.m.*

Location: *NC State Board of CPA Examiners, 1101 Oberlin Road, Ste 104, Raleigh, NC 27605*

Reason for Proposed Action: *All the rules in Subchapter 08G Continuing Professional Education (CPE) were reviewed, clarified, and amended to comply with current professional standards by a Joint Task Force of the NC State Board of CPA Examiners (Board and the North Carolina Association of CPAs and reviewed and approved by the Board for rule-making.*

Comments may be submitted to: *Robert N. Brooks, NC State Board of CPA Examiners, 1101 Oberlin Road, Ste 104, Raleigh, NC 27605; phone (919) 733-1425; fax (919) 733-4209; email rbrooks@nccpaboard.gov*

Comment period ends: *September 30, 2019*

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

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

SUBCHAPTER 08G - CONTINUING PROFESSIONAL EDUCATION (CPE)

SECTION .0400 - CPE REQUIREMENTS

21 NCAC 08G .0401 CPE REQUIREMENTS FOR CPAS

(a) In order for a CPA to receive ~~CPE credit for a course~~: credit for CPE activities:

- (1) the CPA shall attend or complete the ~~course activity~~ and receive a certificate of completion as set forth in ~~Rule .0403(e)(13) of this Section~~; in the Standards for CPE Program Sponsors in the NASBA/AICPA Statement on Standards for Continuing Professional Education (CPE) Programs, including subsequent amendments and editions, which are hereby incorporated by reference. Copies of the Standards for CPE Program Sponsors can be found at no cost on the NASBA website at www.nasbaregistry.org/the-standards;
- (2) the ~~course activity~~ shall meet the requirements set out in ~~Rule .0404(a) and (c)~~ Rule .0404 of this Section; and
- (3) the ~~course activity~~ shall increase the professional competency of the CPA.

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

(c) Because of differences in the education and experience of CPAs, ~~a course an activity~~ may contribute to the professional competence of one CPA but not another. Each CPA shall therefore exercise judgment in selecting ~~courses activities~~ for which CPE credit is claimed and choose only those that contribute to that CPA's professional competence.

(d) Active CPAs shall complete ~~40 CPE hours~~, 2,000 CPE minutes computed in accordance with Rule .0409 of this Section by December 31 of each year, except as follows:

- (1) CPAs having certificate applications approved by the Board in ~~April-June~~ April to June shall complete ~~30 CPE hours~~ 1,500 CPE minutes during the same calendar year;
- (2) CPAs having certificate applications approved by the Board in ~~July-September~~ July to September shall complete ~~20 CPE hours~~ 1,000 CPE minutes during the same calendar year; or
- (3) CPAs having certificate applications approved by the Board in ~~October-December~~ October to December shall complete ~~10 CPE hours~~ 500 CPE minutes during the same calendar year; and

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

~~(e) There shall be no CPE requirements for inactive CPAs. A CPA shall complete a minimum of 50 CPE minutes annually in activities on regulatory or behavioral professional ethics and conduct. Ethics CPE shall be offered by a CPE sponsor registered with NASBA pursuant to Rule .0403(c) of this Section.~~

~~(f) There shall be no CPE requirements for inactive CPAs.~~

~~(g) Any CPE hours completed during the calendar year in which the certificate is approved may be used for that year's requirement even if the hours were completed before the certificate was granted. When a CPA has completed more than the required number of hours minutes of CPE in any one calendar year, the extra hours, not in excess of 20 hours, up to 1,000 minutes shall be carried forward and treated as hours minutes earned in the following year. Ethics CPE hours minutes may shall not be included in any carry forward hours minutes to meet the requirement of Paragraph (e) of this Rule. A CPA shall not claim CPE credit for courses activities taken in any year prior to the year of certification.~~

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

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

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

licensee is licensed and currently works or resides, the non-resident licensee shall comply with Paragraph (e) of this Rule.

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

21 NCAC 08G .0403 QUALIFICATION OF CPE SPONSORS

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

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

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

~~(e) CPE providers not in good standing on the NASBA National Registry of CPE Sponsors shall meet the following requirements:~~

- ~~(1) have an individual who did not prepare the course review each course to be sure it meets the standards for CPE;~~
- ~~(2) state the following in every brochure or other publication or announcement concerning a course:

 - ~~(A) the general content of the course and the specific knowledge or skill taught in the course;~~
 - ~~(B) any prerequisites for the course and any advance preparation required for the course and if none, that shall be stated;~~
 - ~~(C) the level of the course, such as basic, intermediate, or advanced;~~
 - ~~(D) the teaching methods to be used in the course;~~
 - ~~(E) the amount of sponsor recommended CPE credit a CPA who takes the course may claim; and~~
 - ~~(F) the date the course is offered, if the course is offered only on a certain date, and, if applicable, the location;~~~~
- ~~(3) ensure that the instructors or presenters of the course are qualified to teach the subject matter of the course and to apply the instructional techniques used in the course;~~
- ~~(4) evaluate the performance of an instructor or presenter of a course to determine whether the instructor or presenter is suited to serve as an instructor or presenter in the future as follows:

 - ~~(A) before the course's conclusion, provide for the attendees an opportunity to evaluate the quality of the course by questionnaires, oral feedback, or other means, in order to~~~~

- determine whether the course's objectives have been met, its prerequisites were necessary, the facilities used were satisfactory, and the course content was appropriate for the level of the course; and
- (B) systematically review the evaluation process to ensure its effectiveness;
- (5) encourage participation in a course only by those who have the education and experience for the level of the course;
- (6) distribute course materials to participants;
- (7) use physical facilities for conducting the course that are consistent with the instructional techniques used;
- (8) assign the number of CPE credits each participant may be eligible to receive by either:
- (A) monitoring attendance at a group course; or
- (B) testing in order to determine if the participant has learned the material presented;
- (9) inform instructors and presenters of the results of the evaluation of their performances;
- (10) retain for five years from the date of the course presentation or completion:
- (A) a record of participants completing course credit requirements;
- (B) an outline of the course;
- (C) the date and location of presentation;
- (D) the participant evaluations or summaries of evaluations;
- (E) the documentation of the instructor's qualifications; and
- (F) the number of contact hours recommended for each participant;
- (11) have a visible, continuous, and identifiable contact person who is charged with the administration of the sponsor's CPE programs that has the responsibility and shall be accountable for assuring and demonstrating compliance with this Rule by the sponsor or by any other organization working with the sponsor for the development, distribution, or presentation of CPE courses;
- (12) develop and promulgate policies and procedures for the management of grievances including tuition and fee refunds; and
- (13) provide persons completing course requirements with written proof of completion indicating the participant's name, the name of the course, the date the course was held or completed, the sponsor's name and address, and the number of CPE hours calculated and recommended in accordance with Rule .0409 of this Section.

(d) Failure of a National Registry of CPE Sponsor to comply with the terms of this Rule shall be grounds for the Board to disqualify

the sponsor as a CPE sponsor with this Board and to notify NASBA and the public of this action.

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

21 NCAC 08G .0404 REQUIREMENTS FOR CPE CREDIT

(a) A CPA shall not be granted CPE credit for a course an activity unless the course; activity is in one of the fields of study listed in the NASBA Fields of Study, including subsequent amendments and editions, which are hereby incorporated by reference. Copies of the NASBA Fields of Study can be found at no cost on the NASBA website at www.nasbaregistry.org/the-standards.

- (1) is in one of the seven fields of study recognized by the Board and set forth in Paragraph (b) of this Rule;
- (2) is developed by an individual who has education and work experience in the subject matter of the course; and
- (3) uses instructional techniques and materials that are current and accurate as set forth by Rule .0403 of this Section.

(b) The seven fields of study recognized by the Board are:

- (1) Accounting and Auditing
- (A) Accountancy
- (B) Accounting—Governmental
- (C) Auditing
- (D) Auditing—Governmental
- (2) Consulting Services
- (A) Administrative Practice
- (B) Social Environment of Business
- (3) Ethics
- (A) Behavioral Ethics
- (B) Regulatory Ethics
- (4) Management
- (A) Business Law
- (B) Business—Management—and Organization
- (C) Finance
- (D) Management Advisory Services
- (E) Marketing
- (5) Personal Development
- (A) Communications
- (B) Personal Development
- (C) Personnel/HR
- (6) Special Knowledge and Applications
- (A) Computer Science
- (B) Economics
- (C) Mathematics
- (D) Production
- (E) Specialized—Knowledge—and Applications
- (F) Statistics
- (7) Tax

(e)(b) The following may shall qualify as acceptable types of continuing education programs, CPE activities, provided the programs activities comply with the requirements set forth in Paragraph (a) of this Rule: Rule .0403(b) or (c) of this Section:

- (1) professional development ~~programs~~ activities of national and state accounting organizations;
- (2) technical sessions at meetings of national and state accounting organizations and their chapters;
- (3) courses taken at regionally accredited colleges and universities;
- (4) educational ~~programs~~ activities that are designed and intended for continuing professional education activity conducted within a business, accounting firm, or an association of accounting firms; or
- (5) correspondence ~~courses~~ activities that are designed and intended for continuing professional education activity. education.

~~(d)(c)~~ CPE credit ~~may~~ shall be granted for ~~teaching a CPE course instructing or authoring a publication CPE activity~~ as long as the preparation to teach or write increased the CPA's professional competency was increased and was in one of the ~~seven~~ fields of study recognized by the ~~Board and Board~~, as set forth in Paragraph (b)(a) of this Rule.

~~(e)(d)~~ CPE credit shall not be granted for a self-study ~~course~~ activity if the material that the CPA must study to take the examination is not designed for CPE purposes. This includes periodicals, guides, magazines, subscription services, books, reference ~~manuals~~ manuals, and supplements that contain an examination to test the comprehension of the material read.

~~(f)(e)~~ A CPA may claim credit for ~~a course an activity~~ offered by a ~~non-registered sponsor provided that provider if~~ the course activity meets the requirements of this Rule ~~and Rules .0403(e), and .0409 Rule .0409~~ of this Section. The CPA shall maintain documentation proving ~~that the course activity~~ met these standards.

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

21 NCAC 08G .0405 ADMINISTRATION OF REQUIREMENT

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

21 NCAC 08G .0406 COMPLIANCE WITH CPE REQUIREMENTS

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

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

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

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

21 NCAC 08G .0409 COMPUTATION OF CPE CREDITS

(a) ~~Group Courses: Non-College. Activity.~~ CPE credit for a group ~~course activity that is not part of a college curriculum~~ shall be given based on contact ~~hours.~~ minutes. ~~A contact hour shall be 50 minutes of instruction and one half contact hour shall be equal to 25 minutes of instruction. For example, a group course lasting 100 minutes shall be two contact hours equaling two CPE credits. A group course lasting 75 minutes shall be one and one half contact hours equaling one and one half CPE credits. A group course lasting 25 minutes shall be one half contact hour and equal to one half CPE credit. When individual segments of a group course are less than 50 minutes, the sum of the individual segments shall be added to determine the number of contact hours. For example, five 30 minute presentations shall be 150 minutes, which shall be three contact hours and three CPE credits. No credit shall be allowed for a segment unless the participant completes the entire segment. Internet based programs shall employ a monitoring mechanism to verify that participants are participating during the duration of the course. No credit shall be allowed for a group course having fewer than 25 minutes of course instruction.~~

(b) ~~Completing a College Course.~~ CPE credit for completing a college course in the college curriculum shall be granted based on converting the number of credit hours the college gives the CPA for completing the ~~course.~~ course into minutes. One semester hour of college credit shall be ~~45~~ 750 CPE ~~credits; minutes.~~ one quarter hour of college credit shall be 10 CPE credits; and one continuing education unit shall be 10 CPE credits. No CPE credit shall be given to a CPA who audits a college course. No more than 50 percent of the CPE credits required for a year shall be credits for completing a college course.

(c) ~~Self Study. Study Activity.~~ CPE credit for a self-study ~~course~~ activity shall be given based on the ~~average~~ number of ~~contact hours needed to complete the course.~~ minutes needed to complete the activity as determined by the sponsor. ~~The average completion time shall be allowed for CPE credit. A sponsor shall determine on the basis of pre tests or NASBA word count formula the average number of contact hours of course material it takes to complete a course. A contact hour shall be 50 minutes and one half contact hour shall be 25 minutes of course material. No self-study course may contain less than 25 minutes of course material.~~

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

(e) ~~Authoring a Publication.~~ CPE credit for published articles and books shall be given based on the number of ~~contact hours~~ minutes the CPA spent writing the article or book. No more than 25 percent of a CPA's required CPE credits for a year shall be

credits for published articles or books. An article written for a CPA's client or business newsletter shall not receive CPE credit.

(f) Instructing a ~~Graduate Level~~ College Course. CPE credit for instructing a ~~graduate-level~~ college course above the level of accounting principles shall be given based on the number of credit hours the college gives a student for completing the course, using the calculation set forth in Paragraph (b) of this Rule. ~~Credit shall not be given for instructing a course in which there is credit given towards an undergraduate degree.~~ No more than 50 percent of the CPE credits required for a year shall be credits for instructing a college course.

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

(h) Blended Learning Activity. A Blended Learning program offers participants learning in multiple formats or delivery methods. Activities can include lectures, discussion, guided practice, games, case studies, and simulation. The varied delivery methods include Group Live, Group Internet Based, Self Study, or Nano Learning. The primary component of the program may be concurrent (a group program) or nonconcurrent, allowing the participant to control a portion of the time and place of the learning. CPE credit for Blended Learning shall be based on the number of contact minutes incorporated in all the learning formats in the Blended Learning activity. This CPE activity shall be offered by a CPE sponsor registered with NASBA pursuant to Rule .0403(c) of this Section.

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

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

21 NCAC 08G .0410 PROFESSIONAL ETHICS AND CONDUCT CPE

Authority G.S. 93-12(3); 93-12(8b); 93-12(9).

CHAPTER 32 - MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Board intends to amend the rule cited as 21 NCAC 32S .0206.

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncmedboard.org/about_the_board/rule_changes

Proposed Effective Date: December 1, 2019

Public Hearing:

Date: September 30, 2019

Time: 10:00 a.m.

Location: North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609

Reason for Proposed Action: 21 NCAC 32S .0206 is being amended to increase the physician assistant reactivation application fee to be consistent with the Board's fee increases effective April 1, 2019.

Comments may be submitted to: Lynne Taylor, North Carolina Medical Board, PO Box 20007, Raleigh, NC 27615-0007; email rules@ncmedboard.org

Comment period ends: September 30, 2019

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

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

SUBCHAPTER 32S - PHYSICIAN ASSISTANTS

SECTION .0200 – PHYSICIAN ASSISTANT REGISTRATION

21 NCAC 32S .0206 LICENSE REACTIVATION

(a) A physician assistant may apply to reactivate ~~his/her~~ his or her license if:

- (1) ~~his/her~~ he or she had a license in North Carolina;
- (2) the license was placed on inactive status within the past calendar year; and
- (3) the licensee did not become inactive as a result of disciplinary action or to avoid disciplinary action.

(b) A physician assistant requesting reactivation shall:

- (1) complete the ~~board's~~ Board's reactivation application;
- (2) pay to the ~~board~~ Board a ~~nonrefundable~~ nonrefundable the fee of one hundred twenty dollars (\$120), specified

- in Rule .0204 of this Section, plus the cost of a criminal background check;
- (3) submit to the ~~board~~ Board two completed original fingerprint record cards, provided on fingerprint record cards provided by the Board;
 - (4) submit to the ~~board~~ Board a completed signed and dated original Authority for Release of Information Form allowing a search of local, state, and national files to disclose any criminal record;
 - (5) submit a National Practitioner Data Bank (NPDB) ~~and Healthcare Integrity and Protection Data Bank (HIPDB) reports~~, report, dated within 60 days of their submission to the ~~board~~; Board;
 - (6) submit a board action data bank inquiry from the Federation of State Medical Boards (FSMB), dated within 60 days of its submission to the ~~board~~; Board;
 - (7) provide documentation to the ~~board~~ Board verifying completion of 100 hours of continuing medical education during the preceding two years; and
 - (8) supply any other information the ~~board~~ Board deems necessary to evaluate the applicant's qualifications.

(c) An applicant may be required to appear in person for an interview.

Authority G.S. 90-5.1(a)(3); G.S. 90-9.3; 90-18(c)(13); 90-18.1.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Board/Perfusion Advisory Committee intends to amend the rules cited as 21 NCAC 32V .0103 and .0111.

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncmedboard.org/about_the_board/rule_changes

Proposed Effective Date: *December 1, 2019*

Public Hearing:

Date: *September 30, 2019*

Time: *10:00 a.m.*

Location: *North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609*

Reason for Proposed Action:

21 NCAC 32V .0103 is being amended to clarify the reactivation and reinstatement of perfusion licenses.

21 NCAC 32V .0111 is being amended to reflect the Board's new policy of allowing easier ability for perfusionists to practice perfusion in the state in the event of a disaster.

Comments may be submitted to: *Lynne Taylor, North Carolina Medical Board, PO Box 20007, Raleigh, NC 27615; email rules@ncmedboard.org*

Comment period ends: *September 30, 2019*

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

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

SUBCHAPTER 32V – PERFUSIONIST REGULATIONS

21 NCAC 32V .0103 QUALIFICATIONS

APPLICATION FOR LICENSE

(a) Except as otherwise provided in this Subchapter, an individual shall obtain a license from the Committee before the individual may practice as a licensed perfusionist. The Committee may grant a license or provisional license, reactivate a license or provisional license, or reinstate a license or a provisional license to an applicant who has met the following criteria:

- (1) satisfies the requirements of G.S. 90-686;
- (2) is not disqualified for any reason set out in G.S. 90-691; ~~and~~
- (3) ~~submits to the Committee any information the Committee deems necessary to evaluate the application; and completes the appropriate application;~~
- (4) pays the fee as specified in 21 NCAC 32V .0115, plus the cost of a criminal background check;
- (5) submits to the Committee two completed original fingerprint record cards, on fingerprint record cards provided by the Board;
- (6) submits to the Committee a completed signed and dated original Authority for Release of Information Form allowing a search of local, state, and national files to disclose any criminal record;
- (7) except for applications for a provisional license, submits proof of current certification with the ABCP; and
- (8) supplies any other information the Committee deems necessary to evaluate the applicant's qualifications.

- (b) An applicant may be required to appear, in person, for an interview with the Committee.
- (c) For purposes of this Rule, an application for reactivation is for those applicants whose license was placed on inactive status within the past calendar year.
- (d) For purposes of this Rule, an application for reinstatement is for those applicants whose license has been inactive for more than one calendar year, or if the inactive status resulted from disciplinary action or was taken to avoid disciplinary action.

Authority ~~G.S. 90-685(1)(3)(4a)(5)(6) and (7);~~ G.S. 90-685(3)(4a)(5)(6) and (7); 90-686.

21 NCAC 32V .0111 PRACTICE DURING A DISASTER

(a) In the event of a declared disaster or state of emergency that authorizes the Board to exercise its authority under G.S. ~~90-12.2,~~ 90-12.5, and if the ~~board~~ Board does exercise its authority pursuant to G.S. ~~90-12.2,~~ 90-12.5, the Board may allow a perfusionist licensed in any other state, or a current, active certified clinical perfusionist who practices in a state where licensure is not required, to perform perfusion during a disaster within a county in which a disaster or state of emergency has been declared or counties contiguous to a county in which a disaster or state of emergency has been declared (in accordance with G.S. 166A-6). ~~The perfusionist who enters the State for purposes of this Rule shall notify the Board within three business days of his or her work site and provide proof of identification and current licensure or certification.~~

(b) A perfusionist licensed in any other state, or a current, active certified clinical perfusionist who practices in a state where licensure is not required may practice in North Carolina if he or she either:

- (1) holds a full, unlimited, and unrestricted license to practice perfusion in another U.S. state, territory or district;
- (2) is a current active certified clinical perfusionist who practices in a state where licensure is not required who practices perfusion at a North Carolina hospital that is licensed by the North Carolina Department of Health and Human Services and the hospital meets the following requirements:
 - (A) verifies all perfusionist's credentials and privileges;
 - (B) maintains a list of all perfusionists coming to practice and provides this list to the Board within 10 days of each perfusionist practicing at the licensed North Carolina hospital. The licensed North Carolina hospital shall also provide the Board a list of when each perfusionist has stopped practicing perfusion in North Carolina under this Rule within 10 days after each perfusionist has stopped practicing perfusion under this Rule.

(c) A perfusionist may practice under this Rule for the shorter of either:

- (1) 30 days from the date the perfusionist has started practicing under this Rule; or
- (2) a statement by an appropriate authority is made that the emergency or disaster declaration has been withdrawn or ended and, at such time, the license deemed to be issued shall become inactive.

~~(c)(d)~~ All perfusionists practicing under this Rule shall be authorized to practice perfusion in North Carolina and deemed to be licensed to practice perfusion in the State of North Carolina and the Board shall have jurisdiction over all perfusionists practicing under this Rule for all purposes set forth in or related to G.S. 90, Articles 1 and 40, and such jurisdiction shall continue in effect even after all perfusionists have stopped practicing perfusion under this Rule.

Authority G.S. 90-12.5; ~~90-685(3)~~ 90-685(3)(4a)(5)(6) and (7).

* * * * *

CHAPTER 58 - REAL ESTATE COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Real Estate Commission intends to adopt the rule cited as 21 NCAC 58A .1712 and amend the rule cited as 21 NCAC 58A .1705.

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

Proposed Effective Date: January 1, 2020

Public Hearing:

Date: September 11, 2019

Time: 9:00 a.m.

Location: NC Real Estate Commission, 1313 Navaho Drive, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 58A .1705 - ATTENDANCE AND PARTICIPATION REQUIREMENTS

Amend this Rule to remove the 12-hour Broker-In-Charge Course requirements from Paragraph (c) and move those requirements to the proposed rule adoption of 21 NCAC 58A .1712.

21 NCAC 58A .1712 - BROKER-IN-CHARGE COURSE

Adopt this Rule to include the requirements of the Commission's 12-hour Broker-In-Charge Course from 21 NCAC 58A .1705(c) and to allow the course to be split into 2 modules. The Broker-In-Charge Course shall be completed no later than 120 days after course registration and continuing education credit shall be applied to the license year in which the broker completes the course.

Comments may be submitted to: Melissa Vuotto, PO Box 17100, Raleigh, NC 27619-7100; email public.comment@ncrec.gov

Comment period ends: October 4, 2019

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

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

SUBCHAPTER 58A – REAL ESTATE BROKERS

SECTION .1700 – MANDATORY CONTINUING EDUCATION

21 NCAC 58A .1705 ATTENDANCE AND PARTICIPATION REQUIREMENTS

(a) In order to receive credit for completing an approved continuing education course, a broker shall:

- (1) attend at least 90 percent of the scheduled instructional hours for the course;
- (2) provide his or her legal name and license number to the course sponsor;
- (3) present his or her pocket card or photo identification card, if necessary; and
- (4) personally perform all work required to complete the course.

(b) With the instructor or the sponsor's permission, a 10 percent absence allowance shall be permitted at any time during the

course, except that it may not be used to skip the last 10 percent of the course unless the absence is:

- (1) approved by the instructor; and
- (2) for circumstances beyond the broker's control that could not have been reasonably foreseen by the broker, such as:
 - (A) an illness;
 - (B) a family emergency; or
 - (C) acts of God.

~~(c) With regard to the Commission's 12-hour Broker-In-Charge Course that is taught over two days, a broker shall attend at least 90 percent of the scheduled instructional hours on each day of the course and the 10 percent absence allowance referred to in Paragraph (b) of this Rule shall apply to each day of the course.~~

Authority G.S. 93A-3(c); 93A-4.1; .

21 NCAC 58A .1712 BROKER-IN-CHARGE COURSE

(a) The Broker-in-Charge Course is a 12-hour educational course that is required for all brokers designating as broker-in-charge under Rule .0110 of this Subchapter. The 12-hour course is divided into an 8-hour module and a 4-hour module. A broker shall complete the 8-hour module before beginning the 4-hour module.

(b) In order to receive credit for completing the Broker-in-Charge Course, a broker shall:

- (1) attend at least 90 percent of the scheduled instructional hours for the course;
- (2) provide his or her legal name and license number to the course provider;
- (3) present his or her pocket card or photo identification card, if necessary;
- (4) personally perform all work required to complete the course; and
- (5) complete the 12-hour Broker-in Charge Course no later than 120 days after the broker registers for the course.

(c) Upon completion of the 12-hour Broker-in-Charge Course, a broker shall receive four credit hours of elective continuing education. The four credit hours will be awarded in the license year in which the broker completes the 12-hour Broker-in-Charge Course.

Authority G.S. 93A-3(c); 93A-4.1; 93A-4.2.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on June 20, 2019 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT****AGRICULTURE, BOARD OF**

<u>Adoption by Reference</u>	02 NCAC 38 .0401*	33:18 NCR
<u>Importation Requirements: Cattle</u>	02 NCAC 52B .0204*	33:18 NCR
<u>Importation Requirements: Cattle Fever Tick and Scabies</u>	02 NCAC 52B .0205	33:18 NCR
<u>Importation Requirements: Swine</u>	02 NCAC 52B .0207*	33:17 NCR
<u>Importation Requirements: Cervids</u>	02 NCAC 52B .0213	33:17 NCR
<u>Style and Location of Brand</u>	02 NCAC 52E .0402*	33:17 NCR
<u>Protection of Confidential Information</u>	02 NCAC 52G .0303*	33:17 NCR

HHS - AGING AND ADULT SERVICES, DIVISION OF

<u>Adult Day Care Standards</u>	10A NCAC 06Q .0101*	33:17 NCR
<u>Maximum Reimbursement Rates</u>	10A NCAC 06Q .0201*	33:17 NCR

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

<u>Petitions</u>	10A NCAC 14A .0101*	33:15 NCR
<u>Rulemaking Procedures</u>	10A NCAC 14A .0102	33:15 NCR
<u>Declaratory Rulings</u>	10A NCAC 14A .0103*	33:15 NCR

CODE OFFICIALS QUALIFICATION BOARD

<u>Nature of Probationary Certificate</u>	11 NCAC 08 .0602*	33:16 NCR
<u>Special Circumstances</u>	11 NCAC 08 .0707*	33:16 NCR
<u>Certificate</u>	11 NCAC 08 .0708*	33:16 NCR
<u>Inactive Code Enforcement Officials</u>	11 NCAC 08 .0714	33:16 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Scope and Purpose</u>	15A NCAC 02C .0301*	33:10 NCR
<u>Definitions</u>	15A NCAC 02C .0302*	33:10 NCR
<u>Application for Permit</u>	15A NCAC 02C .0303*	33:10 NCR
<u>Permitting</u>	15A NCAC 02C .0304*	33:10 NCR
<u>Grout Inspection and Certification</u>	15A NCAC 02C .0305*	33:10 NCR
<u>Well Completion and Certification</u>	15A NCAC 02C .0306*	33:10 NCR
<u>Well Data and Records</u>	15A NCAC 02C .0307*	33:10 NCR
<u>Appeal Procedure</u>	15A NCAC 02C .0308	33:10 NCR
<u>Well Abandonment and Certification</u>	15A NCAC 02C .0309*	33:10 NCR
<u>Purpose</u>	15A NCAC 02H .0801	33:12 NCR
<u>Scope</u>	15A NCAC 02H .0802	33:12 NCR
<u>Definitions</u>	15A NCAC 02H .0803*	33:12 NCR
<u>Parameters for Which Certification May be Requested</u>	15A NCAC 02H .0804*	33:12 NCR
<u>Certification and Renewal of Certification</u>	15A NCAC 02H .0805*	33:12 NCR
<u>Fees Associated with Certification Program</u>	15A NCAC 02H .0806*	33:12 NCR

<u>Decertification and Civil Penalties</u>	15A NCAC 02H .0807*	33:12 NCR
<u>Recertification</u>	15A NCAC 02H .0808*	33:12 NCR
<u>Reciprocity</u>	15A NCAC 02H .0809*	33:12 NCR
<u>Administration</u>	15A NCAC 02H .0810	33:12 NCR
<u>Purpose</u>	15A NCAC 02H .0901*	32:21 NCR
<u>Scope</u>	15A NCAC 02H .0902*	32:21 NCR
<u>Definition of Terms</u>	15A NCAC 02H .0903*	32:21 NCR
<u>Required Pretreatment Programs</u>	15A NCAC 02H .0904*	32:21 NCR
<u>POTW Pretreatment Program Implementation Requirements</u>	15A NCAC 02H .0905*	32:21 NCR
<u>Submission for Pretreatment Program Approval</u>	15A NCAC 02H .0906*	32:21 NCR
<u>Procedures for Pretreatment Program Approval, Revision an...</u>	15A NCAC 02H .0907*	32:21 NCR
<u>Reporting/Record Keeping Requirements for POTWS/Industria...</u>	15A NCAC 02H .0908*	32:21 NCR
<u>National Pretreatment Standards: Prohibited Discharges</u>	15A NCAC 02H .0909*	32:21 NCR
<u>National Pretreatment Standards: Categorical Standards</u>	15A NCAC 02H .0910*	32:21 NCR
<u>Adjustments for Fundamentally Different Factors</u>	15A NCAC 02H .0912*	32:21 NCR
<u>Public Access to Information</u>	15A NCAC 02H .0913*	32:21 NCR
<u>Upset Provision</u>	15A NCAC 02H .0914*	32:21 NCR
<u>Net/Gross Calculation</u>	15A NCAC 02H .0915*	32:21 NCR
<u>Pretreatment Permits</u>	15A NCAC 02H .0916*	32:21 NCR
<u>Pretreatment Permit Submission and Review</u>	15A NCAC 02H .0917*	32:21 NCR
<u>Local Law</u>	15A NCAC 02H .0918	32:21 NCR
<u>Bypass</u>	15A NCAC 02H .0919*	32:21 NCR
<u>Pretreatment Facility Operation and Maintenance</u>	15A NCAC 02H .0920	32:21 NCR
<u>Revision to Reflect POTW Removal of Pollutant</u>	15A NCAC 02H .0921*	32:21 NCR
<u>Hearings</u>	15A NCAC 02H .0922*	32:21 NCR
<u>Purpose</u>	15A NCAC 02H .1101*	33:12 NCR
<u>Scope</u>	15A NCAC 02H .1102	33:12 NCR
<u>Definitions</u>	15A NCAC 02H .1103*	33:12 NCR
<u>Fees Associated with Certification Program</u>	15A NCAC 02H .1104*	33:12 NCR
<u>Certification</u>	15A NCAC 02H .1105*	33:12 NCR
<u>Decertification</u>	15A NCAC 02H .1106*	33:12 NCR
<u>Recertification</u>	15A NCAC 02H .1107*	33:12 NCR
<u>Reciprocity</u>	15A NCAC 02H .1108*	33:12 NCR
<u>Administration</u>	15A NCAC 02H .1109*	33:12 NCR
<u>Implementation</u>	15A NCAC 02H .1110*	33:12 NCR
<u>Biological Laboratory Certification and Quality Assurance</u>	15A NCAC 02H .1111*	33:12 NCR

COASTAL RESOURCES COMMISSION

<u>Purpose</u>	15A NCAC 07H .2701*	33:14 NCR
<u>General Conditions</u>	15A NCAC 07H .2704*	33:14 NCR
<u>Specific Conditions</u>	15A NCAC 07H .2705*	33:14 NCR

PUBLIC HEALTH, COMMISSION FOR

<u>Definitions</u>	15A NCAC 18C .0102*	33:11 NCR
<u>Removal of Dissolved Matter and Suspended Matter</u>	15A NCAC 18C .0202*	33:11 NCR
<u>Public Well Water Supplies</u>	15A NCAC 18C .0203*	33:11 NCR
<u>Approvals Necessary Before Contracting or Constructing</u>	15A NCAC 18C .0305*	33:11 NCR
<u>Engineer's Report, Water System Management Plan and Other...</u>	15A NCAC 18C .0307*	33:11 NCR

<u>Water Supply Wells</u>	15A NCAC 18C .0402*	33:11 NCR
<u>Surface Water Facilities</u>	15A NCAC 18C .0403*	33:11 NCR
<u>Water Treatment Facilities</u>	15A NCAC 18C .0404*	33:11 NCR
<u>Storage of Finished Water</u>	15A NCAC 18C .0405*	33:11 NCR
<u>Distribution Systems</u>	15A NCAC 18C .0406*	33:11 NCR
<u>Lead Free Construction</u>	15A NCAC 18C .0408*	33:11 NCR
<u>Service Connections</u>	15A NCAC 18C .0409*	33:11 NCR
<u>Other Design Standards</u>	15A NCAC 18C .0503*	33:11 NCR
<u>Impoundments: Pre-Setting Reservoirs</u>	15A NCAC 18C .0601*	33:11 NCR
<u>Mechanical Flocculation</u>	15A NCAC 18C .0703	33:11 NCR
<u>Sedimentation Basin</u>	15A NCAC 18C .0706*	33:11 NCR
<u>Solids Contact or Up-Flow Units</u>	15A NCAC 18C .0707*	33:11 NCR
<u>Gravity Filters</u>	15A NCAC 18C .0708*	33:11 NCR
<u>Alternative Filtration Treatment Technologies</u>	15A NCAC 18C .0711*	33:11 NCR
<u>Pressure Filters</u>	15A NCAC 18C .0713*	33:11 NCR
<u>Pilot Plant Studies</u>	15A NCAC 18C .0714*	33:11 NCR
<u>Other Design Standards</u>	15A NCAC 18C .0715	33:11 NCR
<u>Capacities: Determining Total Volume</u>	15A NCAC 18C .0803*	33:11 NCR
<u>Pipe Laying</u>	15A NCAC 18C .0904*	33:11 NCR
<u>Relation of Water Mains to Sewers</u>	15A NCAC 18C .0906*	33:11 NCR
<u>Disinfection of Wells</u>	15A NCAC 18C .1002*	33:11 NCR
<u>Disinfection of Storage Tanks and Distribution Systems</u>	15A NCAC 18C .1003*	33:11 NCR
<u>Disinfection of Filters</u>	15A NCAC 18C .1004*	33:11 NCR
<u>Control of Treatment Process</u>	15A NCAC 18C .1406*	33:11 NCR
<u>Corrosion Control and Lead and Copper Monitoring</u>	15A NCAC 18C .1507*	33:11 NCR
<u>Inorganic Chemical Sampling and Analysis</u>	15A NCAC 18C .1508*	33:11 NCR
<u>Special Monitoring for Sodium</u>	15A NCAC 18C .1509*	33:11 NCR
<u>Concentration of Iron</u>	15A NCAC 18C .1511*	33:11 NCR
<u>Concentration of Manganese</u>	15A NCAC 18C .1512*	33:11 NCR
<u>Organic Chemicals Other than TTHM, Sampling and Analysis</u>	15A NCAC 18C .1515*	33:11 NCR
<u>Special Monitoring for Inorganic and Organic Chemicals</u>	15A NCAC 18C .1516*	33:11 NCR
<u>Monitoring Frequency for Radioactivity</u>	15A NCAC 18C .1519*	33:11 NCR
<u>Public Notification Requirements</u>	15A NCAC 18C .1523*	33:11 NCR
<u>Reporting for Organic Chemicals</u>	15A NCAC 18C .1524*	33:11 NCR
<u>Reporting Requirements</u>	15A NCAC 18C .1525*	33:11 NCR
<u>Certified Laboratories</u>	15A NCAC 18C .1527*	33:11 NCR
<u>Alternate Analytical Techniques</u>	15A NCAC 18C .1528*	33:11 NCR
<u>Point-of-Entry, Bottled Water, and Other Treatment Devices</u>	15A NCAC 18C .1529*	33:11 NCR
<u>Variances and Exemptions</u>	15A NCAC 18C .1532*	33:11 NCR
<u>Maximum Containment Levels for Coliform Bacteria</u>	15A NCAC 18C .1535*	33:11 NCR
<u>Drinking Water Additives</u>	15A NCAC 18C .1537*	33:11 NCR
<u>Consumer Confidence Report</u>	15A NCAC 18C .1538*	33:11 NCR
<u>Notice</u>	15A NCAC 18C .1804*	33:11 NCR
<u>General Requirements</u>	15A NCAC 18C .2001*	33:11 NCR
<u>Disinfection</u>	15A NCAC 18C .2002*	33:11 NCR
<u>Criteria for Avoiding Filtration</u>	15A NCAC 18C .2005*	33:11 NCR
<u>Disinfectants and Disinfection Byproducts</u>	15A NCAC 18C .2008*	33:11 NCR

TRANSPORTATION, DEPARTMENT OF

<u>Maintenance within Municipalities</u>	19A NCAC 02D .0404*	33:16 NCR
<u>Construction and Maintenance of Sidewalks</u>	19A NCAC 02D .0406*	33:16 NCR
<u>Permits-Authority, Application and Enforcement</u>	19A NCAC 02D .0601*	33:18 NCR
<u>Permits-Issuance and Fees</u>	19A NCAC 02D .0602*	33:18 NCR
<u>Permits-Weight, Dimensions and Limitations</u>	19A NCAC 02D .0607*	33:18 NCR
<u>Permits - House Moves</u>	19A NCAC 02D .0612	33:18 NCR
<u>Denial: Revocation: Refusal to Review: Appeal: Invalidation</u>	19A NCAC 02D .0633*	33:18 NCR
<u>Escort Vehicle Driver Certification</u>	19A NCAC 02D .0643*	33:18 NCR
<u>Oversize-Overweight Load Escort Vehicle Operator Certific...</u>	19A NCAC 02D .0644*	33:18 NCR
<u>Piling Obstructions on Highway or Within Right of Way</u>	19A NCAC 02E .0402*	33:18 NCR
<u>Depositing Mud on State Highways</u>	19A NCAC 02E .0403*	33:18 NCR
<u>Highway Obstructions Interfering with Traffic/Maintenance</u>	19A NCAC 02E .0404*	33:18 NCR
<u>Damage to State Highway System Surface or Shoulder</u>	19A NCAC 02E .0405*	33:18 NCR
<u>Vehicles Served by Service Station</u>	19A NCAC 02E .0406	33:18 NCR
<u>Control and Regulation of Roadside Parks and Rest Areas</u>	19A NCAC 02E .0407*	33:18 NCR
<u>Fishing from Bridges</u>	19A NCAC 02E .0408*	33:18 NCR
<u>Operating Nonmotorized Vehicles</u>	19A NCAC 02E .0409*	33:18 NCR
<u>Hitchhiking on Interstate or Controlled Access Highways</u>	19A NCAC 02E .0410*	33:18 NCR
<u>Jumping from Bridges</u>	19A NCAC 02E .0411	33:18 NCR
<u>Regulation of Airport Construction</u>	19A NCAC 02E .0423*	33:18 NCR
<u>Access Routes for STAA Dimensioned Vehicles</u>	19A NCAC 02E .0426*	33:18 NCR
<u>Bicycle Trails</u>	19A NCAC 02E .0427*	33:18 NCR

MARRIAGE AND FAMILY THERAPY LICENSURE BOARD

<u>Credentials Required</u>	21 NCAC 31 .0201*	32:17 NCR
<u>Review Procedure</u>	21 NCAC 31 .0202*	32:17 NCR
<u>Issuance of License</u>	21 NCAC 31 .0203*	31:17 NCR
<u>Written Examination</u>	21 NCAC 31 .0301*	31:17 NCR
<u>Licensure Renewal Form</u>	21 NCAC 31 .0401	32:17 NCR
<u>Reinstatement after Expiration</u>	21 NCAC 31 .0403*	31:17 NCR
<u>Return from Inactive Status</u>	21 NCAC 31 .0404	32:17 NCR
<u>Appropriate Course of Study</u>	21 NCAC 31 .0501*	32:17 NCR
<u>Ongoing Supervision</u>	21 NCAC 31 .0502*	32:17 NCR
<u>Equivalency</u>	21 NCAC 31 .0503*	32:17 NCR
<u>Alternative to Clinical Practicum</u>	21 NCAC 31 .0504*	32:17 NCR
<u>Non-Degree Granting Post Graduate Training Programs</u>	21 NCAC 31 .0505*	32:17 NCR
<u>Direct Client Contact</u>	21 NCAC 31 .0506*	32:17 NCR
<u>Ethical Principles</u>	21 NCAC 31 .0609*	32:17 NCR
<u>Requirements for Continuing Education</u>	21 NCAC 31 .0701*	32:17 NCR
<u>Licensed Marriage and Family Therapy Associate Credential...</u>	21 NCAC 31 .0801*	32:17 NCR
<u>Licensed Marriage and Family Therapy Associate</u>	21 NCAC 31 .0802*	32:17 NCR
<u>Fees</u>	21 NCAC 31 .1001	32:17 NCR
<u>Fund Suspension</u>	21 NCAC 31 .1002*	32:17 NCR

MEDICAL BOARD

<u>Application for Physician License</u>	21 NCAC 32B .1303*	33:17 NCR
--	--------------------	-----------

<u>Reinstatement of Physician License</u>	21 NCAC 32B .1350*	33:17 NCR
<u>Application for Medical School Faculty License</u>	21 NCAC 32B .1502*	33:17 NCR
<u>Physician Practice and Limited License for Disasters and ...</u>	21 NCAC 32B .1706*	33:17 NCR
<u>Expedited Application for Physician License</u>	21 NCAC 32B .2001*	33:17 NCR
<u>Initiation of Disciplinary Hearings</u>	21 NCAC 32N .0110*	33:17 NCR
<u>Summary Suspension</u>	21 NCAC 32N .0114	33:17 NCR
<u>Limited Physician Assistant Practice and Limited License ...</u>	21 NCAC 32S .0219*	33:17 NCR
<u>Anesthesiologist Assistant Practice and Limited License f...</u>	21 NCAC 32W .0116*	33:17 NCR

ONSITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD

<u>Annual Reports</u>	21 NCAC 39 .0103	33:14 NCR
<u>Cooperation with Board Inquiry</u>	21 NCAC 39 .0802	33:14 NCR
<u>Delegating to Third-Party Service Providers</u>	21 NCAC 39 .0803*	33:14 NCR
<u>Petition for Rule-Making</u>	21 NCAC 39 .0901*	33:14 NCR
<u>Request for Declaratory Ruling</u>	21 NCAC 39 .0902	33:14 NCR
<u>Refusal to Issue Declaratory Ruling</u>	21 NCAC 39 .0903	33:14 NCR
<u>On-Site Wastewater System Components</u>	21 NCAC 39 .1005*	33:14 NCR

STATE HUMAN RESOURCES COMMISSION

<u>Coverage</u>	25 NCAC 01E .0704*	33:12 NCR
<u>Administration</u>	25 NCAC 01E .0705*	33:12 NCR

TITLE 02 - DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

02 NCAC 38 .0401 ADOPTION BY REFERENCE

The Board hereby adopts by reference including subsequent amendments and editions the NIST Handbook 130, "Method of Sale of Commodities Regulation" with the following additions and exceptions:

- (1) The preferred method for measuring fireplace and stove wood is by the cord or fractional parts of a cord. However, nothing in Section 2.4, "Fireplace and Stove Wood," shall be construed as preventing the purchaser and seller of fireplace or stove wood from agreeing on a quantity other than a cord or fractional parts of a cord.
- (2) Section 2.20, "Gasoline-Oxygenate Blends" is deleted.
- (3) Section 2.19. shall apply only to kerosene sold in a container or kerosene sold through a retail device. In addition, a container or a device shall indicate for 1-K kerosene "SUITABLE FOR USE IN UNVENTED HEATERS" and for 2-K kerosene "MAY NOT BE SUITABLE FOR USE IN UNVENTED HEATERS".
- (4) In Section 2.21., the temperature compensation requirements shall not be mandatory. However, if a company elects to sell liquefied petroleum gas on a temperature compensated basis, then all meters in the truck fleet shall be equipped with an activated automatic temperature

- (5) compensator that shall remain in continuous operation for a period of not less than one year. The price for propane dispensed into containers of less than 240 pounds water capacity may be on a minimum price basis provided that the seller displays the minimum price at the point of container fill and the point of sale. This Rule shall not apply to propane container exchange sales where an empty or partially empty container is exchanged for a full one.
- (6) Any variety of potatoes, defined as edible tubers in Section 2.3.2 of the NCWM Policy Interpretations and Guidelines section may also be sold by count providing they meet corresponding standard of "US Grade No. 1" as found in the most current version of the United States Department of Agriculture (USDA) "United States Standards for Sweet Potatoes" or the USDA "United States Standards for Potatoes," as appropriate. Any commercial shipping boxes or other containers, shipping documents and invoices shall be marked as "US Grade No. 1" potatoes.

Copies of NIST Handbook 130, "Method of Sale of Commodities Regulation" are available for inspection in the Office of the Director of the Standards Division and may be obtained for free at <http://www.nist.gov/pml/wmd/pubs/index.cfm>. Copies of the "United States Standards for Sweet Potatoes" and "United States Standards for Potatoes" are available for free at <http://www.ams.usda.gov/grades-standards/vegetables>.

*History Note: Authority G.S. 81A-4;
Eff. May 1, 1983;
Amended Eff. June 1, 1994; January 1, 1990; December 1, 1988;
June 1, 1988;
Readopted Eff. March 1, 2017;
Amended Eff. July 1, 2019.*

**02 NCAC 52B .0204 IMPORTATION
REQUIREMENTS: CATTLE**

(a) All cattle imported into North Carolina shall comply with 9 CFR Part 86, which is hereby incorporated by reference, including any amendments or subsequent editions. Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(b) Brucellosis requirements for cattle imported into North Carolina:

- (1) Cattle originating from any validated brucellosis-free state, as defined in 9 CFR 78.1, which is hereby incorporated by reference, including any amendments or subsequent editions, may enter North Carolina provided the following is recorded on the official interstate certificate of veterinary inspection or owner shipper statement:

- (A) Individual identification of each animal as required by 9 CFR Part 86; and

- (B) Brucellosis status of the state of origin.
- (2) No cattle shall be accepted, other than those consigned to immediate slaughter, which have been adult vaccinated, in accordance with the current edition of the Uniform Methods and Rules for Brucellosis Eradication of the United States Department of Agriculture-Animal and Plant Health Inspection Service (USDA-APHIS), against brucellosis or originate from infected, exposed or quarantined herds. A copy of the Uniform Methods and Rules for Brucellosis Eradication may be obtained at no cost by accessing the website of USDA-APHIS at https://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/downloads/umr_bovine_bruc.pdf.

- (3) In addition, cattle imported from brucellosis class A states, as defined in 9 CFR 78.1, shall comply with the following:

- (A) All females and bulls eight months of age and older must test negative for brucellosis within 30 days prior to entry into North Carolina, except:

- (i) Dairy heifers under 20 months of age that are vaccinated against brucellosis;

- (ii) Heifers of the beef breeds less than 24 months of age that are vaccinated against brucellosis; or

- (iii) Cattle originating from any certified brucellosis-free herd, as defined in 9 CFR 78.1, provided the following is recorded on the official interstate certificate of veterinary inspection:

- (I) individual identification of each animal;
 - (II) herd certification number; and
 - (III) date of last herd test; and

- (B) Cattle from class A states that originate from the farm of origin and move directly to a state or federally licensed stockyard or to a farm in North Carolina in compliance with this Rule are not required to be tested between 45 and 120 days after entry. However, retests may be performed by a representative of the State Veterinarian at no expense to the owner. Eligible cattle that have been commingled in a stockyard prior to importation must, in addition to the requirements of this Rule, test negative for brucellosis between 45 and 120 days after arrival in North Carolina.

- (4) In addition, cattle imported from class B states, as defined in 9 CFR 78.1, shall comply with the following:

- (A) A permit must be issued to the person importing the cattle by the State Veterinarian of North Carolina prior to entry;

- (B) All females and bulls eight months of age or older must test negative for brucellosis within 30 days prior to entry into North Carolina except:

- (i) Dairy heifers under 20 months of age that are vaccinated against brucellosis;

- (ii) Heifers of the beef breeds less than 24 months of age that are vaccinated against brucellosis; or

- (iii) Cattle originating from any certified brucellosis-free herd, as defined in 9 CFR 78.1, provided that the following is recorded on the

official interstate certificate of veterinary inspection:

- (I) Individual identification of each animal;
- (II) Herd certification number; and
- (III) Date of last herd test; and

- (C) All cattle shall be quarantined upon arrival and must test negative between 45 and 120 days after arrival in order to be released from quarantine.

(c) Cattle fever tick and scabies importation requirements:

- (1) No cattle infested with ticks, *Boophilus annulatus*, *B. microplus*, or *Rhipicephalus evertsi evertsi*, or exposed to such infestation shall be shipped, trailed, driven, or otherwise imported into the State for any purpose.
- (2) No cattle affected with scabies shall be shipped, trailed, driven or otherwise imported into the State for any purpose. No cattle recently exposed to scabies or from an area quarantined on account of scabies shall be imported into the State except in accordance with 9 CFR Part 73, which is hereby incorporated by reference, including any amendments or subsequent editions.

History Note: Authority G.S. 106-307.5; 106-361; 106-400; Eff. April 1, 1984; Amended Eff. August 1, 2004; May 1, 1992; June 1, 1988; December 1, 1987; Readopted Eff. July 1, 2019.

02 NCAC 52B .0205 IMPORTATION REQUIREMENTS: CATTLE FEVER TICK AND SCABIES

History Note: Authority G.S. 106-307.5; 106-361; 106-400; Eff. April 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017; Repealed Eff. July 1, 2019.

02 NCAC 52B .0207 IMPORTATION REQUIREMENTS: SWINE

(a) All swine imported into the State, except by an interstate commercial swine movement agreement or for immediate slaughter, shall be accompanied by an interstate certificate of veterinary inspection issued by a state, federal, or accredited veterinarian stating that they are free from any signs of an infectious or communicable disease and are not known to have been exposed to same. The interstate certificate of veterinary inspection shall contain the ear tag or tattoo number of each animal. The interstate certificate of veterinary inspection must show the pseudorabies status of both the herd and state or area of origin. Swine imported for feeding or breeding purposes shall be moved in clean and disinfected trucks or other conveyances to

prevent the spread of infection to other swine. "Accredited veterinarian" means a veterinarian accredited pursuant to 9 CFR Part 161, which is hereby incorporated by reference, including any amendments or subsequent editions.

(b) Breeding swine and all other swine being shipped to a breeding swine premise shall originate from a "Validated Brucellosis-Free" herd or a "Validated Brucellosis-Free" state and shall originate from a "Qualified Pseudorabies-Negative" herd, Qualified-Negative Gene-Altered Vaccinated Herd (QNV), or Pseudorabies Stage IV or V (Free) state. Breeding swine and all other swine being shipped to a breeding swine premise originating from Stage II, II/III or III areas or states must also be isolated and test negative to a statistical 95/5 sample test using a pseudorabies serological test approved pursuant to 9 CFR Part 85.1, which is hereby incorporated by reference, including any amendments or subsequent editions, between 30 and 60 days after arrival and before being added to the herd.

(c) All feeder swine imported into the State from a Pseudorabies Stage II, II/III, or III state or area, as set forth under the USDA Pseudorabies Eradication State-Federal-Industry Program Standards, the definitions of which are incorporated by reference, including amendments and subsequent editions, and can be accessed at no cost at https://www.aphis.usda.gov/animal_health/animal_dis_spec/swine/downloads/prv_program_standards.pdf, shall be accompanied by a permit for entry issued by the State Veterinarian within 30 days prior to entry. The permit number and the date of issuance shall be shown on the interstate certificate of veterinary inspection. The feeder swine in the shipment must have been vaccinated for pseudorabies using a USDA-licensed pseudorabies vaccine with gI deletion and must have tested negative on a statistical (95/2) test within 30 days prior to shipment, and they shall be isolated and quarantined until slaughtered. In addition, the swine must be tested on statistical (95/2) test between 30 and 45 days after arrival. The swine must originate from a qualified negative pseudorabies or a pseudorabies monitored herd that has tested negative on a statistical (95/10) test within 30 days prior to shipment. Feeder swine from a pseudorabies-free state or area may be imported in accordance with Paragraph (a) of this Rule.

(d) Healthy swine for feeding purposes may move directly from a farm of origin in a contiguous state where they have been located for not less than 30 days to a livestock market or stockyard in North Carolina that has been state-federal approved for handling feeder swine, without the interstate certificate of veterinary inspection required herein, provided such swine are accompanied by proof of the pseudorabies status of the herd of origin. The swine shall be inspected by a state or federal inspector or approved accredited veterinarian prior to sale at the market.

(e) Healthy swine may be shipped into the State for immediate slaughter without an interstate certificate of veterinary inspection provided they go directly to a slaughtering establishment under State or federal inspection, or to a state-federal approved livestock market or stockyard for sale to a slaughtering establishment under State or federal inspection for immediate slaughter only.

(f) Swine from a pseudorabies-quarantined herd or swine that have been in contact with pseudorabies-quarantined swine may be imported into the State for immediate slaughter only under the following conditions:

- (1) the swine must be accompanied by a shipping permit (Veterinary Services Form 1-27) issued by an accredited veterinarian or a state or federal animal health employee, consigning the swine only to a slaughtering establishment under State or federal inspection;
- (2) the vehicle transporting the swine must be sealed after loading with an official USDA or state of origin seal. The seal number must be recorded on the Veterinary Services Form 1-27. The seal can be broken or removed only by an NCDA&CS or a USDA employee or other individual authorized by the State Veterinarian; and
- (3) the vehicle used to transport the swine must be cleaned, including any animal waste, and disinfected to prevent the spread of disease immediately after unloading the swine and prior to using the vehicle to transport other livestock.

(g) Feral Swine:

- (1) As used in this Section, "feral swine" means any untamed or undomesticated hog, boar, or pig; swine whose reversion from the domesticated state to the wild state is evident; or an otherwise freely roaming swine having no visible tags, marking, or characteristics indicating that such swine is from a domestic herd. Feral swine includes members of the species *Sus scrofa* Linnaeus, including swine commonly known as old world swine, Russian wild boar, European wild boar, Eurasian wild boar, and razorbacks.
- (2) No person shall import or transport live feral swine in this State.
- (3) No person shall release any hog, boar, pig, or swine to live as a feral swine in North Carolina.

History Note: Authority G.S. 106-307.5; 106-316.1; 106-317; 106-318;

Eff. April 1, 1984;

Amended Eff. February 1, 1996; May 1, 1992; June 1, 1989; January 1, 1989;

Temporary Amendment Eff. April 3, 2000; February 21, 2000; April 30, 1999;

Amended Eff. April 1, 2001; July 1, 2000;

Readopted Eff. July 1, 2019.

**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;
Readopted Eff. July 1, 2019.

02 NCAC 52E .0402 STYLE AND LOCATION OF BRAND

- (a) No brand shall be accepted for registration that:
- (1) contains any numbers;
 - (2) because of shape would be difficult to read when affixed to the animal; or
 - (3) is a close likeness to another registered brand, in accordance with G.S. 80-60.
- (b) If practical, a brand shall be located on either the right or left hip to the rear of the hip bone. In any event, the brand shall be readable from a side or top view of the animal.

History Note: Authority G.S. 80-61;
Eff. April 1, 1984;
Readopted Eff. July 1, 2019.

02 NCAC 52G .0303 PROTECTION OF CONFIDENTIAL INFORMATION

Information submitted by users of biologics shall be treated as confidential information to the extent that the release thereof will divulge the contents or formulation of such product.

History Note: Authority G.S. 106-24.1; 106-709; 106-712;
Eff. April 1, 1984;
Readopted Eff. July 1, 2019.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 06Q .0101 ADULT DAY CARE STANDARDS

Agencies providing Adult Day Care services with funds administered by the North Carolina Division of Aging and Adult Services shall comply with the North Carolina Division of Aging and Adult Services Certification Standards for Adult Day Care, as established by the North Carolina Social Services Commission in 10A NCAC 06R, which is hereby adopted by reference, including subsequent amendments and editions.

History Note: Authority G.S. 143B-181.1(a)(11); 143B-181.1(c);
Eff. July 1, 1992;
Readopted Eff. July 1, 2019.

10A NCAC 06Q .0201 MAXIMUM REIMBURSEMENT RATES

- (a) The maximum reimbursement rate for adult day care services shall not exceed thirty-three dollars and seven cents (\$33.07) per day, per client. The maximum rate for adult day health services shall not exceed forty dollars (\$40.00) per day, per client.
- (b) The maximum reimbursement rate for transporting an adult day care client to an adult day care center shall not exceed one

dollar and fifty cents (\$1.50) for a one-way trip. The maximum reimbursement rate for round-trip transportation of an adult day care client to an adult day care center shall not exceed three dollars (\$3.00) per day, per client.

History Note: Authority G.S. 143B-181.1(a)(11); 143B-181.1(c);
Eff. July 1, 1992;
Readopted Eff. July 1, 2019.

10A NCAC 14A .0101 PETITIONS

(a) Any person wishing to submit a written petition requesting the adoption, amendment, or repeal of a rule by the Director of the Division of Health Service Regulation shall submit the petition addressed to the Director, Division of Health Service Regulation, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701.

- (b) The petition shall contain the following information:
- (1) the text of the proposed rule(s) for adoption or amendment and the statutory authority for the agency to promulgate the rule(s);
 - (2) a statement of the effect on existing rules or orders;
 - (3) a statement of the effect of the proposed rule(s) on existing practices in the area involved, if known; and
 - (4) the name(s) and address(es) of the petitioner(s).
- (c) The petitioner may include the following information within the request:
- (1) documents and any data supporting the petition;
 - (2) a statement of the reasons for adoption of the proposed rule(s), amendment or the repeal of an existing rule(s);
 - (3) a statement explaining the costs and computation of the cost factors, if known; and
 - (4) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule(s).
- (d) The Director, based on a review of the facts stated in the petition, shall consider the following in his or her determination to grant the petition:

- (1) whether he or she has authority to adopt the rule(s);
- (2) the effect of the proposed rule(s) on existing rules, programs and practices;
- (3) probable costs and cost factors of the proposed rule(s);
- (4) the impact of the rule on the public and the regulated entities; and
- (5) whether the public interest will be served by granting the petition.

(e) Petitions that do not contain the information required by Paragraph (b) of this Rule shall be returned to the petitioner by the Director of Division of Health Service Regulation.

History Note: Authority G.S. 150B-20;
Eff. June 10, 1977;

*Readopted Eff. December 1, 1977;
Amended Eff. November 1, 1989;
Readopted Eff. July 1, 2019.*

10A NCAC 14A .0102 RULEMAKING PROCEDURES

*History Note: Authority G.S. 150B-20;
Eff. November 1, 1989;
Repealed Eff. July 1, 2019.*

10A NCAC 14A .0103 DECLARATORY RULINGS

(a) The Director of the Division of Health Service Regulation may issue declaratory rulings. All requests for declaratory rulings shall be written and submitted to: the Director, Division of Health Service Regulation, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701.

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

- (1) the name and address of the petitioner;
- (2) a statement of all relevant facts if the person aggrieved requests a declaratory ruling as to the applicability to a statute, rule, or order of the Division;
- (3) the statute or rule to which the petition relates;
- (4) a statement regarding the petitioner's opinion as to any conflict or inconsistencies, if any, within the Division regarding an interpretation of the law or a rule adopted by the Division to which the petition relates;
- (5) a statement of the manner in which the petitioner is aggrieved by the rule or statute, or its potential application to him or her;
- (6) the consequences of a failure to issue a declaratory ruling; and
- (7) the petitioner's opinion as to the potential impact of the declaratory ruling on the public.

(c) Whenever the Director finds good cause exists to deny the request for declaratory ruling, he or she may deny the request to issue a declaratory ruling. In such a case, the Director shall notify the petitioner in writing of the decision to deny the request for declaratory ruling and shall state the reason for the denial.

(d) Good cause for the denial of a declaratory ruling request may include one of the following:

- (1) the person submitting the request is not a person aggrieved;
- (2) there is no conflict or inconsistency within the Division regarding an interpretation of the law or a rule adopted by the Division;
- (3) a situation where there has been similar controlling factual determination in a contested case;
- (4) if the request for declaratory ruling involves a factual context that was considered upon adoption of the rule being questioned as evidenced by the rulemaking record;
- (5) the factual representations are not specific to the statute or rule being questioned;
- (6) issuing the declaratory ruling will not serve the public interest; or

- (7) if circumstances stated in the request or otherwise known to the agency show that a contested case hearing would be appropriate.

(e) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as the Director may select in a particular case if additional information may assist in determining whether to grant or deny the petition.

(f) The Director may issue notice to persons who might be affected by the ruling that written comments may be submitted or oral presentations received at a scheduled hearing if the Director finds such comments or presentations may provide additional information that will assist in determining whether to grant or deny the petition.

*History Note: Authority G.S. 150B-4;
Eff. November 1, 1989;
Amended Eff. November 1, 2010;
Readopted Eff. July 1, 2019.*

TITLE 11 - DEPARTMENT OF INSURANCE

11 NCAC 08 .0602 NATURE OF PROBATIONARY CERTIFICATE

A probationary certificate may be issued without examination to any newly employed or newly promoted code enforcement official who lacks a standard certificate that covers the new position. A probationary certificate shall be issued for three years only and shall not be renewed. During the three-year period, the official shall complete the requirements set forth in 11 NCAC 08 .0706 to qualify for the appropriate standard certificate. A probationary certificate shall authorize the official, during the effective period of the certificate, to hold the position of the type, level, and location specified. The certificate shall be conditioned on the applicant's completion of a high school diploma or a high school equivalency certificate and meeting one of the following:

- (1) working under supervision sufficient, as determined by a supporting letter provided for in 11 NCAC 08 .0706(b), to protect the public health and safety;
- (2) possessing a minimum of two years of design, construction, or inspection experience working under a certified inspector or under a licensed professional engineer, registered architect, or licensed contractor;
- (3) possessing one of the experience qualifications listed in 11 NCAC 08 .0706 in each area of code enforcement for which the probationary certificate is issued; or
- (4) achieving a minimum score of 70 percent on the probationary prequalification exam administered by the Board in each area of code enforcement for which the probationary certificate is issued.

*History Note: Authority G.S. 143-151.12(2); 143-151.13(d);
Eff. June 28, 1979;
Amended Eff. December 1, 1982;*

*Temporary Amendment Eff. January 1, 1983; For a Period of 120 Days to Expire on April 30, 1983;
Amended Eff. December 1, 2017; July 18, 2002; October 1, 1992;
February 1, 1991; May 1, 1983;
Readopted Eff. July 1, 2019.*

11 NCAC 08 .0707 SPECIAL CIRCUMSTANCES

(a) Licensed County Electrical Inspector. Certificates issued pursuant to G.S. 143-151.13(e) shall be for the electrical inspector level corresponding to the level at which the applicant is currently certified.

(b) Registered Architect, Licensed General Contractor, Licensed Plumbing or Heating Contractor, Licensed Electrical Contractor, Registered Professional Engineer. Applicants for certification under G.S. 143-151.13(f) shall successfully complete the Board's prescribed short course, as set out in 11 NCAC 08 .0706(g)(3), concerning State Building Code rules and code enforcement administration prior to being certified. Applicants under this Paragraph shall be currently registered or licensed (as of June 13, 1977) by the State of North Carolina as an architect, a general contractor, a plumbing or heating contractor, an electrical contractor, or a professional engineer to receive certification. The standard certificate shall authorize the person to practice as a qualified code enforcement official of the type and at the performance level determined by the Board to be appropriate, in accordance with 11 NCAC 08 .0706, in light of the applicant's education, training, and experience.

(c) Certified Code Enforcement Official From Another State. Pursuant to G.S. 143.151.14(a), the Board may, without requiring an examination, issue a standard certificate to any person who successfully completes the Board's prescribed short course concerning State Building Code rules and code enforcement administration and who holds a currently valid certificate as a qualified code enforcement official from another state or territory whose standards are acceptable to the Board and not lower than those required of North Carolina applicants, under Article 9C of the North Carolina General Statutes and all applicable administrative rules governing Code Enforcement Officials.

(d) Certified Code Enforcement Official with International Code Council Certification. Applicants for certification pursuant to G.S. 143-151.14(b) shall successfully complete the short course required by G.S. 143-151.14(c) as set out in 11 NCAC 08 .0706(g)(3).

(e) Comity Applicants. Comity applicants as set out in in Paragraphs (c) and (d) of this Rule shall meet the experience requirements specified in 11 NCAC 08 .0706 to be eligible for comity consideration. The successful completion of a law and administration course and a standard technical course, as set out in 11 NCAC 08 .0706(g)(3), in the area and level of the standard certificate must be completed within three years to maintain any standard certificate issued due to comity. Standard certificates issued under comity shall expire if required courses are not completed within the three-year period.

*History Note: Authority G.S. 143-151.13; 143-151.14;
Eff. January 15, 1980;
Amended Eff. July 1, 1983;
Readopted Eff. July 1, 2019.*

11 NCAC 08 .0708 CERTIFICATE

(a) If an application meets the requirements of Rules .0704 and .0706 of this Section, the application fee has been paid, and the applicant qualified for a particular type and level of certificate, the Board's staff shall mail a standard certificate of that type and level to the applicant at the address specified on the application. The certificate shall be effective until the renewal date specified in G.S. 143-151.16(b).

(b) If the applicant does not meet the criteria for the certificate for which he or she applied, the applicant shall be given written notice of the criterion that the applicant fails to meet and offered a choice of:

- (1) accepting a certificate for a lower level for which the applicant is qualified;
- (2) submitting additional evidence in support of the application;
- (3) withdrawing the application; or
- (4) appealing the decision to the Board.

If an appeal is filed, the Board shall conduct a hearing and render a decision in accordance with Article 3A of G.S. 150B.

*History Note: Authority G.S. 143-151.12; 143-151.13;
143-151.14; 143-151.17; 143-151.19;
Eff. January 15, 1980;
Amended Eff. December 1, 2017; July 18, 2002; January 1, 1991;
Readopted Eff. July 1, 2019.*

11 NCAC 08 .0714 INACTIVE CODE ENFORCEMENT OFFICIALS

(a) A CEO either who is no longer employed by a local inspection department or who remains employed by a local inspection department but no longer has Code enforcement responsibility shall be inactive. Inactive CEOs shall not be subject to certificate renewal requirements nor continuing education requirements.

(b) When an inactive CEO wishes to become reemployed as an active CEO, the CEO shall complete continuing education courses within one year after reemployment to re-activate certificates in addition to completing the courses required for renewal of certificates as follows:

- (1) A CEO who has been on inactive status for more than two years and who has not been continuously employed by a local inspection department during the period of inactive status shall complete continuing education courses of six hours for each technical area in which the CEO is certified.
- (2) A CEO who has been on inactive status for more than two years and who has been continuously employed by a local inspection department during the period of inactive status shall complete continuing education courses of three hours for each technical area in which the CEO is certified.
- (3) A CEO who has been on inactive status for two years or less shall complete CE courses of two hours for each technical area in which the CEO is certified.

History Note: Authority G.S. 143-151.13A(b); 143-151.13A(d); 143-151.15;
Eff. February 1, 2006;
Readopted Eff. July 1, 2019.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 02C .0301 SCOPE AND PURPOSE

(a) The purpose of the rules of this Section is to set out standards for permitting and inspection of private drinking water wells as defined in G.S 87-85 by local health departments pursuant to G.S. 87-97.

(b) The rules of 15A NCAC 02C .0100 apply to private drinking water wells, as well as the following:

- (1) Potential sources of groundwater contamination shall not be located closer to the well than the separation distances specified in 15A NCAC 02C .0107(a)(2) or .0107(a)(3), as applicable;
- (2) In addition to the provisions in 15A NCAC 02C .0109, the builder, well contractor, pump installer, or homeowner, as applicable, shall provide assistance when necessary to gain access for inspection of the well, pumps, and pumping equipment; and
- (3) In addition to the requirements of 15A NCAC 02C .0113, any well that acts as a source or channel of contamination shall be repaired or permanently abandoned within 30 days of receipt of notice from the local health department.

History Note: Authority G.S. 87-87; 87-97;
Eff. July 1, 2008;
Readopted Eff. July 1, 2019.

15A NCAC 02C .0302 DEFINITIONS

The definitions in G.S. 87-85 and 15A NCAC 02C .0102 apply throughout this Section. In addition, the following definitions apply throughout this Section:

- (1) "Abandonment Permit" means a well abandonment permit issued by the local health department authorizing or allowing the permanent abandonment of any private drinking water well as defined in the rules of this Section.
- (2) "Certificate of Completion" means a certification by the local health department that a private drinking water well has been constructed or repaired in compliance with the construction permit or repair permit.
- (3) "Construction of wells" means the term as defined in G.S. 87-85.
- (4) "Construction permit" means a well construction permit issued by the local health department authorizing or allowing the

construction of any private drinking water well as defined in the rules of this Section.

(5) "Known source of release of contamination" means a location where any of the following activities, facilities, or conditions have been documented by the Department of Environmental Quality or a local health department:

- (a) Groundwater contamination incidents arising from agricultural operations, including application of agricultural chemicals pursuant to 15A NCAC 02L;
- (b) Groundwater contamination associated with the construction or operation of injection, monitoring, and other wells subject to permitting under the Well Construction Act and this Subchapter;
- (c) Groundwater contamination associated with the operation of non-discharge, discharge (NPDES) facilities, land application of animal waste, and other activities subject to permitting under G.S. 143-215.1;
- (d) Releases of hazardous waste or constituents that currently exceed the Groundwater Quality Standards listed in 15A NCAC 02L at facilities governed under G.S. 130A-294;
- (e) Dry-Cleaning Solvent Cleanup sites regulated under G.S. 143-215.104(A);
- (f) Pre-regulatory landfills and Inactive hazardous substance or waste disposal sites governed under the Inactive Hazardous Sites Act of 1987, G.S. 130A-310;
- (g) Solid waste facilities subject to 15A NCAC 13B that have monitoring wells with exceedances of the Groundwater Protection Standards as defined in 15A NCAC 13B .1634(g) and (h);
- (h) Releases of petroleum and hazardous substances subject to G.S. 143-215.75 through 215.98;
- (i) Sites that fall within the authority of the Brownfields Property Reuse Act as defined by G.S. 130A, Article 9 Part 5;
- (j) Contamination associated with pollution sources in soils or other sites known or suspected to have exceeded the Groundwater Quality Standards listed in 15A NCAC 02L; or
- (k) Contamination known to the local health department through experience with the property, surrounding properties, or information provided by the applicant.

- (7) "Local Health Department" means the authorized agent of the county or district health department or its successor.
- (8) "Person" means the term as defined in G.S. 87-85.
- (9) "Plat" means a property survey prepared by a registered land surveyor, drawn to a scale of one inch equals no more than 60 feet, that includes: the specific location of all structures and proposed structures and appurtenances, including decks, porches, pools, driveways, out buildings, existing and proposed wastewater systems, existing and proposed wells, springs, water lines, surface waters or designated wetlands, easements, including utility easements, and existing or proposed chemical or petroleum storage tanks above or below ground. "Plat" also means, for subdivision lots approved by the local planning authority and recorded with the county register of deeds, a copy of the recorded subdivisions plat that is accompanied by a site plan that is drawn to scale.
- (10) "Pumps" and "pumping equipment" means the terms as defined in G.S. 87-85.
- (11) "Repair" means the term as defined in G.S. 87-85.
- (12) "Repair permit" means a well repair permit issued by the local health department authorizing or allowing the repair of any private drinking water well as defined in the rules of this Section.
- (13) "Site plan" means a drawing not necessarily drawn to scale that shows the existing and proposed property lines with dimensions, and the specific location of all structures and proposed structures and appurtenances, including decks, porches, pools, driveways, out buildings, existing and proposed wastewater systems, existing and proposed wells, springs, water lines, surface waters or designated wetlands, easements, including utility easements, and existing or proposed chemical or petroleum storage tanks above or below ground.
- (14) "Water supply system" means pump and pipe used in connection with or pertaining to the operation of a private drinking water well including pumps, distribution service piping, pressure tanks, and fittings.
- (15) "Well contractor activity" has the same meaning as in G.S. 87-98.2(6).
- (16) "Well seal" means the term as defined in G.S. 87-85.

History Note: Authority G.S. 87-87; 87-97;
Eff. July 1, 2008;
Readopted Eff. July 1, 2019.

15A NCAC 02C .0303 APPLICATION FOR PERMIT

A property owner or the property owner's agent shall submit an application for a permit to construct, repair, or abandon a private drinking water well to the local health department for the county where the well is located or will be located. The application shall include:

- (1) The name, the address, and the phone number of the proposed well property owner or agent;
- (2) The signature of owner or agent;
- (3) The address and the parcel identification number of the property where the proposed well is to be located;
- (4) A plat or site plan;
- (5) The intended use(s) of the property;
- (6) Other information deemed necessary by the local health department to determine the location of the property and any site characteristics, such as existing or permitted sewage disposal systems, easements or rights of way, existing wells or springs, surface water or designated wetlands, chemical or petroleum storage tanks, landfills, waste storage, known source of release of contamination, and any other characteristics or activities on the property or adjacent properties that could impact groundwater quality or suitability of the site for well construction;
- (7) Any current or pending restrictions regarding groundwater use as specified in G.S. 87-88(a); and
- (8) Any variances regarding well construction or location issued under 15A NCAC 02C .0118.

History Note: Authority G.S. 87-87; 87-97;
Eff. July 1, 2008;
Readopted Eff. July 1, 2019.

15A NCAC 02C .0304 PERMITTING

(a) No person shall construct a private drinking water well without first obtaining a well construction permit from the local health department. No person shall repair a private drinking water well without first obtaining a well repair permit, except a well repair permit is not required for maintenance or pump repair or replacement. Disinfection in accordance with 15A NCAC 02C .0111 is a maintenance activity that does not require a repair permit. No person shall permanently abandon a private drinking water well without first obtaining a well abandonment permit from the local health department.

(b) Before issuing a well construction permit, the local health department shall conduct a field investigation to evaluate the topography, landscape position, available space, and potential sources of groundwater contamination on or around the site where a private drinking water well is to be located. Furthermore, the Department shall conduct a search of DEQ's published inventories to determine whether the proposed well site is located within 1,000 feet of a known source of release of contamination. The local health department shall issue a private water well construction permit after determining the site can be permitted for a well meeting the rules of this Section. The local health

department shall not issue a construction permit for a well in violation of restrictions regarding groundwater use established pursuant to G.S. 87-88(a). The construction permit shall include a site plan showing the location of potential sources of contamination and area(s) suitable for well construction. The construction permit shall reference documentation from DEQ's published inventories of known releases of contamination within 1,000 feet of the proposed well site, and any known risk of constructing the well related to those findings. The local health department shall issue a written notice of denial of a construction permit if it determines a private drinking water well cannot be constructed in compliance with the rules of this Section. The notice of denial shall include reference to specific laws or rules that cannot be met and shall be provided to the applicant.

(c) Any well permit shall be valid for a period of five years; however, the local health department may revoke a permit at any time if it determines that there has been a material change in any fact or circumstance upon which the permit shall not be issued. The validity of a well construction permit or a well repair permit is not affected by a change in ownership of the site where a private drinking water well is proposed to be located if the proposed well can still be constructed or repaired in the permitted area and in accordance with this Section and 15A NCAC 02C .0100. The local health department may suspend or revoke any permits issued upon a determination that the rules of this Section have been violated.

(d) If there is an improperly abandoned well(s) on the site, the construction permit shall be conditioned upon repair or abandonment of those improperly abandoned well(s) in accordance with the rules of 15A NCAC 02C .0100.

*History Note: Authority G.S. 87-87; 87-97;
Eff. July 1, 2008;
Readopted Eff. July 1, 2019.*

15A NCAC 02C .0305 GROUT INSPECTION AND CERTIFICATION

(a) The well contractor shall contact the local health department to schedule a grout inspection before grouting a private drinking water well and include the location, permit number, and anticipated time for grouting each private drinking water well. The local health department shall schedule the appointment by the end of the business day before the grouting is to occur except where the local health department has made provisions for scheduling inspections at night or on the same day of the inspection.

(b) Upon completion of a grout inspection, the local health department shall provide a written certification on the well permit that a grout inspection was completed and that the grouting is in compliance with the rules of 15A NCAC 02C .0100. When a local health department is unable to conduct a grout inspection within one hour of the scheduled time, the well contractor may grout a well without a grout inspection by the local health department. The well contractor shall provide a written certification to the local health department that the well has been grouted in compliance with the rules of 15A NCAC 02C .0100. A completed Well Construction Record form GW-1 stating the well was grouted in compliance with the rules of this Section shall serve as the well contractor's grout certification. For purposes of issuing a

Certificate of Completion, the well contractor's grout certification shall be accepted by the local health department as evidence the grout complies with the rules of this Section if the local health department:

- (1) was contacted by the well contractor to schedule a grout inspection;
- (2) was unable to inspect the grouting of the well within one hour following the scheduled time; and
- (3) upon final inspection, finds no evidence to indicate the well grout does not comply with the rules of this Section.

*History Note: Authority G.S. 87-87; 87-97;
Eff. July 1, 2008;
Readopted Eff. July 1, 2019.*

15A NCAC 02C .0306 WELL COMPLETION AND CERTIFICATION

(a) After receiving a permit to construct a private drinking water well, the property owner or agent shall notify the health department prior to well construction if any of the following occur:

- (1) The separation criteria specified in 15A NCAC 02C .0107 cannot be met;
- (2) The residence or other structure is located other than indicated on the permit;
- (3) The use of the structure is changed from the use specified on the permit;
- (4) The septic system needs to be changed from the location indicated on the permit;
- (5) Landscaping changes have been made that may affect the integrity of the well;
- (6) There are current or pending restrictions regarding groundwater use as specified in G.S. 87-88(a);
- (7) The water source for any well intended for domestic use is adjacent to any water-bearing zone suspected or known to be contaminated; or
- (8) Any other changes occur in the information provided in the application for the well permit.

(b) The well contractor shall maintain a copy of the well construction permit, repair permit, or abandonment permit on the job site at all times during the construction, repair, or abandonment of the well. The well contractor shall meet all the conditions of the permit.

(c) The well contractor shall submit a copy of Well Construction Record (GW-1) to the local health department. Upon completion of construction or repair of a private drinking water well for which a permit is required, the local health department shall inspect the well and issue a Certificate of Completion that includes an "as built" drawing. Prior to the issuance of a Certificate of Completion, the local health department shall verify that the well was constructed in the designated area and according to the well construction permit and the rules of this Subchapter. The local health department shall inspect the grout around the casing for any settling, inspect the well head after the well seal is in place, and verify that a Well Construction Record has been received from the

certified well contractor. No person shall place a private drinking water well into service without first having obtained a Certificate of Completion.

History Note: Authority G.S. 87-87; 87-97;
Eff. July 1, 2008;
Readopted Eff. July 1, 2019.

15A NCAC 02C .0307 WELL DATA AND RECORDS

(a) Any person completing, abandoning, or repairing any well shall submit a record of the construction, abandonment, or repair to the local health department and the Division of Water Resources within 30 days of completion of construction, abandonment, or repair. The record shall be on a form provided by the Department of Environmental Quality.

(b) The local health department shall maintain a registry of all permitted private drinking water wells, specifying the well location and the water quality test results until the well is permanently abandoned in accordance with this Subchapter.

History Note: Authority G.S. 87-87; 87-97;
Eff. July 1, 2008;
Readopted Eff. July 1, 2019.

15A NCAC 02C .0308 APPEAL PROCEDURE

Appeals concerning permit decisions or actions by the local health department to enforce the rules of this Section shall be conducted according to the procedures established in G.S. 150B, the Administrative Procedure Act.

History Note: Authority G.S. 87-87;
Eff. July 1, 2008;
Readopted Eff. July 1, 2019.

15A NCAC 02C .0309 WELL ABANDONMENT AND CERTIFICATION

(a) The applicant or well contractor shall contact the local health department to provide notification of intent to permanently abandon a private drinking water well, and include the location, permit number, and anticipated time for abandonment of each private drinking water well. If it is conducting an inspection, the local health department shall schedule the appointment by the end of the business day before the abandonment is to occur except where the local health department has made provisions for scheduling inspections at night or on the same day as the inspection.

(b) Upon notification from the well contractor, the local health department may opt to inspect the well abandonment process. The local health department shall inform the well contractor of its availability and intention to inspect the well abandonment after notification pursuant to Paragraph (a) of this Rule. When a local health department is unable to conduct the abandonment inspection within one hour of the scheduled time, the well contractor may abandon the well without an inspection by the local health department.

(c) Upon completion of a permanent well abandonment, the local health department shall provide a written certification on the well abandonment permit, or other local health department form, that a well abandonment inspection was completed and that the

abandonment is in compliance with the rules of 15A NCAC 02C .0100. When the local health department opts to not inspect the permanent abandonment process, the well contractor shall provide written certification to the local health department that the well has been abandoned in compliance with the rules of 15A NCAC 02C .0100. A completed Well Abandonment Record form GW-30 stating the well was abandoned in compliance with the rules of this Section shall serve as the well contractor's abandonment certification.

History Note: Authority G.S. 87-87;
Eff. July 1, 2019.

15A NCAC 02H .0801 PURPOSE
15A NCAC 02H .0802 SCOPE

History Note: Authority G.S. 143-215.3(a)(1);
 143-215.3(a)(10);
Eff. February 1, 1976;
Amended Eff. November 2, 1992; July 1, 1988; December 1, 1984; November 1, 1978;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. August 1, 2002;
Repealed Eff. July 1, 2019.

15A NCAC 02H .0803 DEFINITIONS

The following terms as used in this Section shall have the assigned meaning:

- (1) "Acceptable Proficiency Testing Results" means those results on Proficiency Testing Samples that are within the Vendor-specified acceptable range as indicated by a Vendor or Split Samples that are within the specified acceptance range as provided by the State Laboratory.
- (2) "Analytical Chemistry Experience" means experience analyzing samples in a chemistry laboratory or supervising a chemistry laboratory that analyzes samples.
- (3) "Approved Procedure" means an analytical procedure based upon reference methods found in Rule .0805(a)(1)(A) through (E) of this Section, and approved for use for monitoring subject to G.S. 143-215.1 and 143-215.63 and the rules of this Section. State Laboratory Approved Procedures for Field Parameters may be obtained by request from the State Laboratory or on the State Laboratory Certification website at <https://deq.nc.gov/about/divisions/water-resources/water-resources-data/water-sciences-home-page/laboratory-certification-branch>.
- (4) "Certification" means a declaration by the State Laboratory that the personnel, equipment, records, quality control procedures, and methodology cited by the applicant comply with these Rules and that the applicant's proficiency with analytical chemistry has been

- considered and found to be acceptable by the State Laboratory pursuant to these Rules.
- (5) "Certified Data" means any analytical result, including the Supporting Records, obtained using a method or procedure pursuant to Rule .0805(a)(1)(A) through (F) of this Section.
 - (6) "CFR" means the Code of Federal Regulations.
 - (7) "Commercial Laboratory" means any laboratory, including its agents or employees, which is seeking to analyze or is analyzing samples in a chemistry laboratory or in a field setting, including Field Parameters, for others for a fee.
 - (8) "Decertification" means loss of Certification.
 - (9) "Director" means the Director of the Division of Water Resources.
 - (10) "Division" means the Division of Water Resources.
 - (11) "Falsified Data or Information" means data or information that, whether by intent or disregard for accuracy, has been altered, fabricated, or otherwise mischaracterized by omission or substitution, such that the value or information reported is incorrect, incomplete, or inaccurate.
 - (12) "Field Laboratory" means a laboratory, including its agents or employees, that is seeking Certification to analyze or is analyzing samples in a chemistry laboratory or a field setting for Field Parameters only.
 - (13) "Field Parameters" shall include Total Residual Chlorine, Free Available Chlorine, Conductivity, Dissolved Oxygen, pH, Settleable Residue, Salinity, Sulfite, Turbidity, Temperature, Vector Attraction Reduction Option 5, Vector Attraction Reduction Option 6, and Vector Attraction Reduction Option 12.
 - (14) "Inaccurate Data or Other Information" means data or information that is in any way incorrect or mistaken.
 - (15) "Industrial Laboratory" means a laboratory, including its agents or employees, operated by an industry to analyze samples in a chemistry laboratory or in a field setting under the scope of these Rules.
 - (16) "In-situ" means in the original or natural place or site.
 - (17) "Matrix Spike" means an additional aliquot of an environmental sample to which a known concentration of the analytes of interest is added before sample preparation, cleanup, and determinative procedures have been implemented. It is used to assess the performance of the method by measuring the effects of interferences caused by the sample matrix and reflects the bias of the method for the particular matrix in question.
 - (18) "Mobile Laboratory" means a collection of analytical equipment and instruments contained in an environmentally controlled vehicle that can be deployed to a project site for other than Field Laboratory Certification purposes.
 - (19) "Municipal Laboratory" means a laboratory, including its agents or employees, operated by a municipality or other local government to analyze samples in a chemistry laboratory or in a field setting under the scope of these Rules. Municipal Laboratories may cost-share among Municipal Laboratories or charge a cost recovery fee or surcharge to operate their Pretreatment Program.
 - (20) "Other Laboratory" means a facility that is not required to obtain State Laboratory Certification as part of its routine operation and does not analyze samples in a chemistry laboratory or in a field setting for a fee, or is doing business as a non-profit facility.
 - (21) "Parameter" means the analyte, element, compound, or property being measured.
 - (22) "Parameter Method" means a type of analytical technique, including materials and tools, used to measure a Parameter.
 - (23) "Pretreatment Program" means a program of waste pretreatment requirements set up in accordance with 15A NCAC 02H .0900, and approved by the Division.
 - (24) "Proficiency Testing (PT) Sample" means a performance evaluation sample whose true value is unknown to the laboratory and provided by a State Laboratory-approved Vendor to test whether the laboratory can produce analytical results within the specified acceptance criteria.
 - (25) "Recertification" means re-instating Certification at the end of the Decertification period imposed by the Division pursuant to Rule .0807 of this Section.
 - (26) "Reference Temperature-Measuring Device" means a National Institute of Standards and Technology (NIST) traceable temperature-measuring device used only to verify the calibration of other temperature-measuring devices.
 - (27) "Root Cause" means the originating factor that caused a nonconformance.
 - (28) "Second Source" means reference solutions from a different manufacturer or from the same manufacturer and identified by a different lot number.
 - (29) "Split Sample" means two or more representative portions taken from a sample or subsample and analyzed by two or more laboratories approved by the State Laboratory.
 - (30) "Standard Operating Procedure (SOP)" means a laboratory's analytical or operational procedures, described with sufficient detail to allow someone similarly qualified to reproduce the procedures used to generate the test or desired result.

- (31) "State" means the North Carolina Department of Environmental Quality.
- (32) "State Laboratory" means the Water Sciences Section, including the Laboratory Certification Branch of the North Carolina Division of Water Resources.
- (33) "Supporting Record" means any document or other source of information compiled, recorded, or stored in written form, by electronic process, or in any other manner that provides any information necessary to reconstruct or characterize a reported value.
- (34) "Unacceptable Proficiency Testing Results" means those results on Proficiency Testing Samples that do not fall within the Vendor-specified acceptable range as stated by a State Laboratory-approved Vendor, or Split Samples that do not fall within the specified acceptable range as indicated by the State Laboratory, or a failure to meet a reporting deadline imposed by the Vendor or State Laboratory.
- (35) "Uncertified Data" means any analytical result, including the Supporting Records, obtained using a method or procedure that is not acceptable to the State Laboratory pursuant to these Rules; analytical results produced by a laboratory for an analysis not within the scope of the rules of this Section; or analytical results produced by a laboratory without proper Certification.
- (36) "US EPA" means the United States Environmental Protection Agency.
- (37) "Vector Attraction Reduction Option" refers to an option for demonstrating a reduction in vector attraction of sewage sludge listed in 40 CFR 503.33(b)(1) through (b)(12).
- (38) "Vendor" means an accredited Proficiency Testing Sample provider recognized by The NELAC Institute (TNI).

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); Eff. February 1, 1976; Amended Eff. November 2, 1992; December 1, 1984; November 1, 1978; Temporary Amendment Eff. October 1, 2001; Amended Eff. August 1, 2002; Readopted Eff. July 1, 2019.

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

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

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

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

- (1) Acidity;
- (2) Alkalinity;
- (3) Biochemical Oxygen Demand;
- (4) Bromide;
- (5) Carbonaceous Biochemical Oxygen Demand;
- (6) Chemical Oxygen Demand;
- (7) Chloride;
- (8) Chlorine, Free Available;
- (9) Chlorine, Total Residual;
- (10) Chlorophyll;
- (11) Coliform, Fecal;
- (12) Coliform, Total;
- (13) Color;
- (14) Conductivity/Specific Conductance;
- (15) Cyanide;
- (16) Dissolved Organic Carbon;
- (17) Dissolved Oxygen;
- (18) Enterococci;
- (19) Escherichia Coliform (E. coli);
- (20) Flash Point;
- (21) Fluoride;
- (22) Hardness, Total;
- (23) Ignitability;
- (24) Surfactants as Methylene Blue Active Surfactants;
- (25) Nitrogen, Ammonia;
- (26) Nitrogen, Nitrite plus Nitrate;
- (27) Nitrogen, Nitrate;
- (28) Nitrogen, Nitrite;
- (29) Nitrogen, Total Kjeldahl;
- (30) Oil and Grease;
- (31) Orthophosphate;
- (32) Paint Filter Liquids;
- (33) pH;
- (34) Phenols;
- (35) Phosphorus, Total;
- (36) Residue, Settleable;
- (37) Residue, Total;
- (38) Residue, Total Dissolved;
- (39) Residue, Total Suspended;
- (40) Residue, Volatile;
- (41) Salinity;
- (42) Salmonella;
- (43) Silica;
- (44) Sulfate;
- (45) Sulfide;
- (46) Sulfite;

- (47) Temperature;
- (48) Total Organic Carbon;
- (49) Turbidity;
- (50) Vector Attraction Reduction: Option 1;
- (51) Vector Attraction Reduction: Option 2;
- (52) Vector Attraction Reduction: Option 3;
- (53) Vector Attraction Reduction: Option 4;
- (54) Vector Attraction Reduction: Option 5;
- (55) Vector Attraction Reduction: Option 6;
- (56) Vector Attraction Reduction: Option 7;
- (57) Vector Attraction Reduction: Option 8; and
- (58) Vector Attraction Reduction: Option 12.

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

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

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

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

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); Eff. February 1, 1976; Amended Eff. November 2, 1992; December 1, 1984; Temporary Amendment Eff. October 1, 2001; Amended Eff. August 1, 2002; Readopted Eff. July 1, 2019.

15A NCAC 02H .0805 CERTIFICATION AND RENEWAL OF CERTIFICATION

(a) Prerequisites and requirements for Certification. The following requirements shall be met by all laboratories, excluding Field Laboratories, prior to Certification. Once certified, failure to comply with any of the following items shall be a violation of Certification requirements.

- (1) Laboratory Procedures. Analytical methods, sample preservation, sample containers, and sample holding times shall conform to the requirements found in:
 - (A) 40 CFR Part 136 and 40 CFR Part 503;
 - (B) Standard Methods for the Examination of Water and Wastewater;
 - (C) Test Methods for Evaluating Solid Waste, SW-846, Third Edition;

- (D) Control of Pathogens and Vector Attraction in Sewage Sludge; EPA/625/R-92/013;
- (E) Massachusetts Department of Environmental Protection, Method for the Determination of Volatile Petroleum Hydrocarbons (VPH), February 2018, Revision 2.1, and Method for the Determination of Extractable Petroleum Hydrocarbons (EPH), May 2004, Revision 1.1, and
- (F) The State Laboratory may develop Approved Procedures for Field Parameters based upon the methods in any of the sources referenced in Parts(a)(1)(A) through (E) of this Rule.
- (G) The procedures and methods listed in this Subparagraph are incorporated by reference, including subsequent amendments and editions.
- (H) The materials in this Subparagraph are available for inspection at the State Laboratory, 4405 Reedy Creek Road, Raleigh, North Carolina, 27607 or may be obtained from:
 - (i) The Code of Federal Regulations, 40 CFR Part 136 and 40 CFR Part 503, may be obtained from the Superintendent of Documents, U.S. Government Printing Office (GPO), Superintendent of Public Documents, Washington, D.C., 20402 and free of charge at <http://www.ecfr.gov>.
 - (ii) Standard Methods for the Examination of Water and Wastewater, is available for purchase from American Water Works Association (AWWA), 6666 West Quincy Avenue, Denver, CO 80235; American Public Health Association (APHA), 8001 Street, NW, Washington, D.C. 20001; or Water Environment Federation (WEF), 601 Wythe Street, Alexandria, VA 22314; and <http://www.standardmethods.org/>.
 - (iii) Test Methods for Evaluating Solid Waste, SW-846, Third Edition may be obtained from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, D.C. 20402 and free of charge at <http://www.epa.gov/osw/hazard/testmethods/sw846/online/>.
- (iv) Control of Pathogens and Vector Attraction in Sewage Sludge; EPA/625/R-92/013 is available from US EPA; Office of Research and Development, Washington, D.C. 20460 and free of charge at <http://www.water.epa.gov/scitech/wastetech/biosolids/>.
- (v) Massachusetts Department of Environmental Protection, Method for the Determination of Volatile Petroleum Hydrocarbons (VPH), February 2018, Revision 2.1, et seq. and Method for the Determination of Extractable Petroleum Hydrocarbons (EPH), May 2004, Revision 1.1, et seq may be obtained from the Massachusetts Department of Environmental Protection, Senator William X. Wall Experiment Station, 37 Shattuck Street, Lawrence, MA, 01843-1398 and free of charge at https://www.mass.gov/files/documents/2018/02/23/VPH%20GC%20PIDFID_Revison%202_1_February%202018.pdf and <http://www.mass.gov/eea/docs/dep/cleanup/laws/eph0504.pdf>, respectively.
- (vi) State Laboratory Approved Procedures for Field Parameters may be obtained by request from the State Laboratory or on the State Laboratory website at <https://deq.nc.gov/about/divisions/water-resources/water-resources-data/water-sciences-home-page/laboratory-certification-branch>.
- (J) The Commission or assigned delegate may approve other analytical

- procedures, parameters, or Parameter Methods that produce verifiable and repeatable results.
- (2) Proficiency Testing. Annually, each certified laboratory shall achieve Acceptable Proficiency Testing Results on a minimum of one evaluation sample for each Parameter Method listed on their Certified Parameters Listing for which Proficiency Testing Samples are available from more than one Vendor, as required by these Rules. When two Proficiency Testing Samples for the same Parameter Method are analyzed and submitted at the same time, an unacceptable result on one or both samples shall be considered the first unacceptable result for Certification purposes. A laboratory that submits Unacceptable Proficiency Testing Results for two Proficiency Testing Samples for the same Parameter Method submitted at the same time shall analyze a remedial Proficiency Testing Sample to show a return to control and send a description of corrective actions to the State Laboratory that includes the Root Cause of the failure and the corrective actions taken to prevent recurrence. Proficiency Testing samples shall be analyzed in the same manner that routine samples are analyzed using the same staff, sample tracking, sample preparation procedures, analytical methods, standard operating procedures, calibration techniques, quality control procedures, and acceptance criteria.
- (A) All laboratories shall participate annually in an evaluation study by analyzing Proficiency Testing Samples obtained from a State Laboratory-approved Vendor as unknowns, and arranging with the Vendor to send the graded results directly to the State Laboratory by the date due. A laboratory that submits Unacceptable Proficiency Testing Results shall analyze a remedial Proficiency Testing Sample using the same Parameter Method to show a return to control and send a description of corrective actions to the State Laboratory that includes the Root Cause of the failure and the corrective actions taken to prevent recurrence.
- (B) Laboratories requesting initial Certification or additional Parameter Method Certification shall submit an acceptable Proficiency Testing sample result from the most recent attempt analyzed within the last six months for each Parameter Method for which Proficiency Testing samples are available. Laboratories shall analyze Proficiency Testing samples obtained from a State Laboratory-approved Vendor as unknowns and arrange with the Vendor to send the graded results directly to the State Laboratory. Laboratories that submit two consecutive Unacceptable Proficiency Testing Results for a particular Parameter Method shall then submit two consecutive Acceptable Proficiency Testing results from the most recent attempt analyzed within the six months prior to initial Certification for that Parameter Method.
- (C) If Proficiency Testing Samples are not available, Certification for that Parameter shall be based on the on-site inspection, adherence to the approved procedures, and the other requirements in this Section. Analysis of Split Samples may also be required if Proficiency Testing Samples are not available or if analysis of Proficiency Testing Samples is not representative of the entire analytical process.
- (3) Supervisory Requirements.
- (A) The supervisor of a Commercial Laboratory shall have a Bachelor's degree in chemistry or other science curricula from a college or university recognized as accredited by the U.S. Department of Education, plus two years of laboratory experience in analytical chemistry, or a two-year associate degree in chemistry technology, environmental sciences, or other science curricula from a college, university, or technical institute, recognized as accredited by the U.S. Department of Education, plus four years of experience in analytical chemistry.
- (B) The supervisor of a non-Commercial Municipal, Industrial, Mobile, or Other Laboratory shall have a Bachelor's degree in chemistry or other science curricula from a college or university recognized as accredited by the U.S. Department of Education, plus six months of laboratory experience in analytical chemistry or an equivalent combination of education and work experience, or a two-year associate degree in chemistry technology, environmental sciences, or other science curricula from a college or university recognized as

accredited by the U.S. Department of Education, plus two years of experience in analytical chemistry or an equivalent combination of education and work experience. Non-degree supervisors shall have six years of laboratory experience in analytical chemistry or an equivalent combination of education and work experience.

- (C) All laboratory supervisors shall be subject to review by the State Laboratory. One person may serve as supervisor of no more than two certified laboratories. The supervisor shall provide personal and direct supervision of the technical personnel and shall be responsible for adherence to all requirements in this Section. The supervisor shall work in the laboratory or contact the laboratory once each day tests, analyses, measurements, or monitoring required under G.S. 143 Article 21 are performed and Supporting Records shall be maintained as evidence of this supervision. If the supervisor will be absent, the supervisor shall arrange for a substitute capable of insuring adherence to all requirements in this Rule. The substitute supervisor shall not be in charge for more than 12 consecutive weeks. Previous laboratory-related performance shall be considered when reviewing the qualifications of a potential laboratory supervisor.
- (4) Laboratory Manager. Each laboratory shall designate a laboratory manager and include his or her name and title on the application for Certification. The laboratory manager shall be administratively above the laboratory supervisor and will be in responsible charge in the event the laboratory supervisor ceases to be employed by the laboratory and will be responsible for filling the laboratory supervisor position with a replacement qualified pursuant to these Rules. At Commercial Laboratories, where the owner is the laboratory supervisor, the laboratory manager and laboratory supervisor may be the same person if there is no one administratively above the laboratory supervisor.
- (5) Application. Each laboratory requesting initial Certification shall submit an application to the State Laboratory that includes the laboratory name, contact information, EPA laboratory code number, applicable permit number(s), laboratory supervisor information, analytical

methods, and equipment. The application may be obtained by request from the State Laboratory or on the State Laboratory website at <https://deq.nc.gov/about/divisions/water-resources/water-resources-data/water-sciences-home-page/laboratory-certification-branch/application-forms>. The application fee and the laboratory's quality assurance manual, including Standard Operating Procedures for all requested Parameter Methods, must also be submitted. Separate application and Certification shall be required for each Mobile Laboratory and the applicant shall supply the vehicle make, vehicle identification number, and license number. Separate application and Certification shall be required for all stationary laboratories maintained on properties that do not share a common boundary line, even though operated under the same management; however, separate Certification shall not be required for separate buildings on the same or adjoining grounds. Analysis of Field Parameters away from the physical location of the laboratory shall be permitted without separate Certification. After receiving a completed application and prior to issuing Certification, a representative of the State Laboratory may visit each laboratory to verify the information in the application and the adequacy of the laboratory.

- (6) Facilities, Supplies, and Equipment. Each laboratory requesting Certification shall be maintained so as to ensure the security and integrity of samples. Samples shall be analyzed in such a manner that contamination or error will not be introduced. Each facility shall contain or be equipped with the following:
 - (A) A source of water that will meet the minimum criteria of the approved methodologies; and
 - (B) Glassware, chemicals, supplies, and equipment required to perform all tests, analyses, measurements, or monitoring included in its Certification.
- (7) Analytical quality assurance and quality control program. Each laboratory shall have a documented analytical quality assurance and quality control program. Each laboratory shall have a copy of each approved test, analysis, measurement, or monitoring procedure being used in the laboratory. Each laboratory shall develop documentation outlining the analytical quality control practices used for the Parameter Methods included in its Certification, including Standard Operating Procedures for each certified Parameter Method. Quality assurance, quality control, and Standard Operating Procedure documentation shall indicate the

effective date of the document and be reviewed every two years and updated if changes in procedures are made. Each laboratory shall have a formal process to track and document review dates and any revisions made in all quality assurance, quality control, and Standard Operating Procedure documents. Supporting Records shall be maintained as evidence that these practices are implemented. The quality assurance, quality control, and Standard Operating Procedure documents shall be available for inspection by the State Laboratory. The following shall be included in each certified laboratory's quality assurance and quality control program. For analysis of Field Parameters, a certified laboratory shall follow the quality assurance and quality control requirements in Subparagraphs (g)(1) through (9) of this Rule.

- (A) Unless specified by the method or this Rule, each laboratory shall establish performance acceptance criteria for all quality control analyses. Each laboratory shall calculate and document the precision and accuracy of all quality control analyses with each sample set. When the method of choice specifies performance acceptance criteria for precision and accuracy, and the laboratory chooses to develop laboratory-specific limits, the laboratory-specific limits shall not be less stringent than the criteria stated in the approved method.
- (B) If quality control results fall outside established limits or show an analytical problem, the laboratory shall identify the Root Cause of the failure. The problem shall be resolved through corrective action, the corrective action process documented, and any samples involved shall be reanalyzed, if possible. If the sample cannot be reanalyzed, or if the quality control results continue to fall outside established limits or show an analytical problem, the results shall be qualified as such.
- (C) Except where otherwise specified in an analytical method, laboratories shall analyze five percent of all samples in duplicate to document precision. Laboratories analyzing fewer than 20 samples per month shall analyze one duplicate during each month that samples are analyzed.
- (D) Unless the referenced method states a greater frequency or the parameter is not amenable to spiking, laboratories

shall spike five percent of samples monthly. Laboratories analyzing fewer than 20 samples per month shall analyze one Matrix Spike during each month that samples are analyzed.

- (E) All analytical records, including original observations and information necessary to facilitate historical reconstruction of the calculated results, shall be maintained for five years. All analytical data and records pertinent to each certified analysis shall be available for inspection upon request. All analytical records shall be legible to all parties and safeguarded against unauthorized amendment, obliteration, erasures, overwriting, and corruption. Records that are stored only on electronic media shall be maintained throughout the five-year retention period and supported in the laboratory by all hardware and software necessary for data retrieval and review. All documentation errors shall be corrected by drawing a single line through the error so that the original entry remains legible. Entries shall not be obliterated by erasures or markings. Wite-Out®, correction tape, or similar products designed to obliterate documentation shall not to be used; instead, the correction shall be written adjacent to the error. The correction shall be initialed by the responsible individual and the date of change documented. All manual data and log entries shall be written in indelible ink.
- (F) All laboratories shall use printable laboratory benchsheets. Certified Data shall be traceable to the associated sample analyses and shall consist of:
 - (i) the method or Standard Operating Procedure;
 - (ii) the laboratory identification;
 - (iii) the instrument identification;
 - (iv) the sample collector;
 - (v) the signature or initials of the analyst;
 - (vi) the date and time of sample collection;
 - (vii) the date of sample analyses;
 - (viii) the time of sample analyses (when required to document a required holding time or when time-critical steps are imposed by the method, a federal regulation, or this Rule);

- (ix) sample identification;
- (x) sample preparation, where applicable;
- (xi) the volume of sample analyzed, where applicable;
- (xii) the proper units of measure;
- (xiii) the dilution factor, where applicable;
- (xiv) all manual calculations;
- (xv) all quality control assessments;
- (xvi) the value from the measurement system;
- (xvii) the final value to be reported; and
- (xviii) any other data needed to reconstruct the final calculated result.

Each item shall be recorded each time that samples are analyzed. The date and time that samples are placed into and removed from ovens, water baths, incubators and other equipment shall be documented if a time limit is required by the method.

(G) If certified for total suspended residue, total dissolved residue, or total residue, laboratories shall analyze one standard monthly during each month samples are analyzed.

(H) For analytical procedures requiring analysis of a series of standards, the concentrations of these standards shall bracket the range of the sample concentrations measured. One of the standards shall have a concentration equal to or less than the laboratory's lowest reporting concentration for the parameter involved. All data sets shall reference the corresponding calibration. Laboratories shall analyze or back-calculate a standard at the same concentration as the lowest reporting concentration each day samples are analyzed. A calibration blank and calibration verification standard shall be analyzed prior to sample analysis, after every tenth sample, and at the end of each sample group, unless otherwise specified by the method, to check for carryover and calibration drift.

- (i) The concentration of reagent, method, and calibration blanks shall not exceed 50 percent of the lowest reporting concentration or as otherwise specified by the reference method.

(ii) Laboratories shall analyze one known second source standard to verify the accuracy of standard preparation if an initial calibration is performed and in accordance with the referenced method requirements thereafter.

(iii) For electrode analyses, a series of two or more non-zero standards shall be used.

(iv) For metals analyses, a series of three or more non-zero standards or standards as set forth in the analytical procedure shall be analyzed with each sample set.

(v) For colorimetric analyses, a series of five or more non-zero standards for a curve prepared every 12 months or three or more non-zero standards for curves established each day, or standards as set forth in the analytical procedure, shall be analyzed to establish a calibration curve. A manufacturer's factory-set calibration (internal curve) shall be verified with the same number of standards and frequency as a prepared curve.

(vi) For ion chromatographic analyses, a series of five or more non-zero standards for a curve prepared every 12 months or three or more non-zero standards for curves established each day, or standards as set forth in the analytical procedure, shall be analyzed to establish a calibration curve.

(I) Each day samples are placed into or removed from an incubator, oven, water bath, refrigerator, or other temperature-controlled device, the temperature shall be checked, recorded, dated, and initialed. If a method requires more frequent monitoring, the method shall be followed. During each use of an autoclave, the temperature, pressure, cycle time, and items autoclaved shall be checked, recorded, dated, and initialed.

- (J) The analytical balance shall be checked with one ASTM Type 1, Class 1 or 2, or equivalent standard weight each day used. These weights shall be verified every five years. The analytical balance shall be verified monthly with three ASTM Type 1, Class 1 or 2, or equivalent standard weights across the range of use. The values obtained shall be recorded, dated, and initialed. Laboratory analytical balances shall be serviced by a metrology vendor or technician every 12 months to verify that the balance is functioning within manufacturer's specifications.
- (K) Chemical containers shall be dated when received and when opened. Reagent containers shall be dated, identified, and initialed when prepared. Chemicals and reagents exceeding the expiration date shall not be used. The laboratory shall have a documented system of traceability for the purchase, preparation, and use of all chemicals, reagents, standards, and consumables.
- (L) A record of sample collection date, sample collection time, sample collector, and the use of proper preservatives and preservation techniques shall be maintained. Each North Carolina sample shall indicate the collection site on all record transcriptions.
- (M) Sample preservation shall be verified and documented. If a laboratory receives a sample subject to G.S. 143-215.1 and 143-215.63 that does not meet sample collection, holding time, or preservation requirements, the laboratory shall document the incident, notify the sample collector or client, and secure another sample that meets the regulatory requirements, if possible. If another viable sample cannot be secured, the original sample may be analyzed but the results reported shall be qualified with the nature of the sample collection, holding time, or preservation infractions and the laboratory shall notify the State Laboratory of the infractions. The notification shall include a statement indicating corrective action taken to prevent future infractions.
- (N) All temperature-measuring devices shall have accuracy that meets or exceeds one-half the tolerance required for its intended use. All temperature-measuring devices shall be used, stored, and maintained according to the manufacturer's instructions.
- (i) Reference Temperature-Measuring Devices shall meet National Institute of Standards and Technology (NIST) specifications for accuracy and shall be recalibrated in accordance with the manufacturer's recalibration date not to exceed five years. If no recalibration date is given, the Reference Temperature-Measuring Device shall be recalibrated every five years.
- (ii) Excluding digital, incubator, and infrared temperature-measuring devices, all non-Reference Temperature-Measuring Devices shall be verified at the temperature of use every 12 months against a Reference Temperature-Measuring Device and their accuracy shall be corrected.
- (iii) Digital temperature-measuring devices and temperature-measuring devices used in incubators shall be verified at the temperature of use every three months against a Reference Temperature-Measuring Device and their accuracy shall be corrected.
- (iv) Infrared temperature-measuring devices shall be verified every three months at three different temperatures over the temperature range of use against a Reference Temperature-Measuring Device and their accuracy shall be corrected. Each day of use, infrared temperature-measuring devices shall be verified against a non-Reference Temperature-Measuring Device that meets NIST specifications for accuracy. If the infrared temperature-measuring device does not agree within

- 0.5 degrees Celsius during the daily verification, the laboratory shall take corrective action.
- (O) Mechanical volumetric liquid-dispensing devices (e.g., fixed and adjustable auto-pipettors and bottle-top dispensers) used for critical volume measurements shall be calibrated once every six months.
- (P) Each laboratory shall develop and implement a documented training program that includes documentation that:
- (i) staff have the education, training, experience, or demonstrated skills needed to generate quality control results within method-specified limits and meet the requirements of these Rules;
 - (ii) staff have read the laboratory quality assurance manual and applicable Standard Operating Procedures; and
 - (iii) staff have obtained acceptable results on Proficiency Testing Samples pursuant to Rule .0803(1) of this Section or other demonstrations of proficiency (e.g., side-by-side comparison with a trained analyst, acceptable results on a single-blind performance evaluation sample, an initial demonstration of capability study prescribed by the reference method).
- (b) Issuance of Certification.
- (1) Upon compliance with these Rules, Certification shall be issued by the Director or assigned delegate, for each of the applicable Parameter Methods requested within 30 calendar days of payment of the initial invoice.
 - (2) Initial Certifications shall be valid for the remainder of the applicable Certification cycle that begins on January 1 and ends December 31 of the same year.
- (c) Maintenance of Certification.
- (1) To maintain Certification for each Parameter Method, a certified laboratory shall analyze one Proficiency Testing Sample per Parameter Method per year. A laboratory may be asked to analyze additional Proficiency Testing Samples for a Parameter Method if a question about the accuracy of data produced arises, if there are changes in equipment or personnel, if inaccurate information is reported with Proficiency Testing results, or if Unacceptable Proficiency Testing Results are submitted.
- (2) In addition, if a Proficiency Testing Sample is not available, the State Laboratory may request the analysis of Split Samples. Acceptable Split Sample results shall be determined by the State Laboratory using scientifically valid statistical methodology.
 - (3) The State Laboratory may require certified laboratories to analyze blind Proficiency Testing Samples or Split Samples under direction of State Laboratory personnel if there is a question about the accuracy of data produced, if Proficiency Testing Samples are not available, or if analysis of Proficiency Testing Samples does not represent the entire analytical process.
 - (4) A certified laboratory shall be subject to periodic announced or unannounced inspections during the Certification period and shall make time and all records pursuant to Part (a)(7)(E) of this Rule available for inspection.
 - (5) A certified laboratory shall supply copies of all records pursuant to Part (a)(7)(E) of this Rule for any investigation upon written request by the State Laboratory.
 - (6) A certified laboratory shall provide the State Laboratory with written notice of laboratory supervisor or laboratory manager changes within 30 calendar days of such changes.
 - (7) A certified laboratory shall submit written notice of any changes of location, ownership, address, name, or telephone number within 30 calendar days of such changes.
- (d) Certification Renewals. Certification renewals shall be issued for one year.
- (e) Data Reporting.
- (1) Certified Commercial Laboratories shall provide data reports to their clients that are signed by the laboratory supervisor. This signatory authority may be delegated in writing.
 - (2) If a certified laboratory refers or subcontracts analysis of samples to another laboratory certified for the Parameter, the referring laboratory shall supply the date and time that samples were collected to insure holding times are met. All record transcriptions of subcontracted samples shall state that the collection site is in North Carolina. Laboratories may subcontract sample fractions, extracts, leachates, and other sample preparation products provided that adherence to 15A NCAC 02H .0800 is documented. The initial client requesting the analyses shall receive the original or a copy of the report made by the laboratory that performs the analyses. Each reported result shall be traceable to the

- laboratory that performed the analysis on the final report.
- (3) All Uncertified Data shall be documented as such on the benchsheet and on the final report.
 - (4) Sample results reported below the lowest reporting concentration, if required by the data receiver, shall be qualified as an estimated value.
 - (5) Reported data associated with quality control failures, improper sample collection, holding time exceedances, or improper preservation shall be qualified as such.
- (f) Voluntary Discontinuation of Certification.
- (1) A laboratory may discontinue Certification for any or all Parameter Methods by making a written request to the State Laboratory.
 - (2) After discontinuation of Certification, a laboratory shall only be recertified by meeting the requirements for initial Certification; however, laboratories that discontinue Certification during any investigation shall be subject to Rule .0808 of this Section.
- (g) Prerequisites and Requirements for Field Laboratory Certification. Laboratories that meet the requirements of this Paragraph shall be certified as Field Laboratories. Once certified, failure to comply with any of the following items shall be a violation of Certification requirements.
- (1) All analytical records, including original observations and information necessary to facilitate historical reconstruction of the calculated results, shall be maintained for five years. All analytical data and records pertinent to each certified analysis shall be available for inspection upon request. All analytical records shall be legible to all parties and safeguarded against unauthorized amendment, obliteration, erasures, overwriting and corruption. Records that are stored only on electronic media shall be maintained throughout the five-year retention period and supported in the laboratory by all hardware and software necessary for data retrieval and review. All documentation errors shall be corrected by drawing a single line through the error so that the original entry remains legible. Entries shall not be obliterated by erasures or markings. Wite-Out®, correction tape, or similar products designed to obliterate documentation are not to be used; instead the correction shall be written adjacent to the error. The correction shall be initialed by the responsible individual and the date of change documented. All manual data and log entries shall be written in indelible ink.
 - (2) All laboratories shall use printable laboratory benchsheets. Certified Data shall be traceable to the associated sample analyses and shall consist of:
 - (A) the method or Standard Operating Procedure;
 - (B) the laboratory identification;
 - (C) the instrument identification;
 - (D) the sample collector;
 - (E) the signature or initials of the analyst;
 - (F) the date and time of sample collection;
 - (G) the date of sample analyses;
 - (H) the time of sample analyses (when required to document a required holding time or when time-critical steps are imposed by the method, a federal regulation, or this Rule);
 - (I) sample identification;
 - (J) sample preparation, where applicable;
 - (K) the volume of sample analyzed, where applicable;
 - (L) the proper units of measure;
 - (M) the dilution factor, where applicable;
 - (N) all manual calculations;
 - (O) the quality control assessments;
 - (P) the value from the measurement system;
 - (Q) the final value to be reported; and
 - (R) any other data needed to reconstruct the final calculated result.
- Each item shall be recorded each time samples are analyzed. Analyses shall conform to methodologies found in Subparagraph (a)(1) of this Rule.
- (3) A record of instrument calibration or calibration verification shall be documented and available for inspection upon request.
 - (4) Laboratory Procedures. Laboratory procedures shall comply with Subparagraph (a)(1) of this Rule. A copy of each analytical method or Approved Procedure and Standard Operating Procedure shall be available to each analyst and available for review upon request by the State Laboratory. Standard Operating Procedure documentation shall state the effective date of the document and shall be reviewed every two years and updated if changes in procedures are made. Each laboratory shall have a formal process to track and document review dates and any revisions made in all Standard Operating Procedure documents. Supporting Records shall be maintained as evidence that these practices are implemented.
 - (5) Each laboratory shall develop and implement a documented training program that includes the following:
 - (A) that staff have the education, training, experience, or demonstrated skills needed to generate quality control results within method-specified limits and that meet the requirements of these Rules;
 - (B) that staff have read the laboratory quality assurance manual or applicable Standard Operating Procedures;

- (C) that staff have obtained acceptable results on Proficiency Testing samples pursuant to Rule .0803(1) of this Section or other demonstrations of proficiency (e.g., side-by-side comparison with a trained analyst, acceptable results on a single-blind performance evaluation sample, an initial demonstration of capability study prescribed by the reference method).
- (6) Each facility shall have glassware, chemicals, supplies, equipment, and a source of water that meets the criteria of the approved methodologies. Samples shall be analyzed in such a manner that contamination or error will not be introduced.
- (7) Chemical containers shall be dated when received and when opened. Reagent containers shall be dated, identified, and initialed when prepared. Chemicals and reagents exceeding the expiration date shall not be used. Chemicals and reagents shall be assigned expiration dates by the laboratory if not given by the manufacturer. If the laboratory is unable to determine an expiration date for a chemical or reagent, a one-year time period from the date of receipt shall be the expiration date unless degradation is observed prior to this date. The laboratory shall have a documented system of traceability for all chemicals, reagents, standards, and consumables.
- (8) If quality control results fall outside established limits or indicate an analytical problem, the laboratory shall identify the Root Cause of the failure. The problem shall be resolved through corrective action, the corrective action process documented, and any samples involved shall be reanalyzed, if possible. If the sample cannot be reanalyzed, or if the quality control results continue to fall outside established limits or indicate an analytical problem, the results shall be qualified as such.
- (9) All temperature-measuring devices shall have accuracy that meets or exceeds one-half the tolerance required for its intended use. All temperature-measuring devices shall be used, stored, and maintained in accordance with the manufacturer's instructions.
 - (A) Reference Temperature-Measuring Devices shall meet National Institute of Standards and Technology (NIST) specifications for accuracy and shall be recalibrated in accordance with the manufacturer's recalibration date. If no recalibration date is given, the Reference Temperature-Measuring Device shall be recalibrated every five years.
- (B) Excluding digital, incubator, and infrared temperature-measuring devices, all non-Reference Temperature-Measuring Devices shall be verified every twelve months against a Reference Temperature-Measuring Device and their accuracy shall be corrected.
- (C) Digital temperature-measuring devices and temperature-measuring devices used in incubators shall be verified every three months against a Reference Temperature-Measuring Device and their accuracy shall be corrected.
- (D) Infrared temperature-measuring devices shall be verified every three months at three different temperatures over the temperature range of use against a Reference Temperature-Measuring Device and their accuracy shall be corrected. Each day of use, infrared temperature-measuring devices shall be verified against a non-Reference Temperature-Measuring Device that meets NIST specifications for accuracy. If the infrared temperature-measuring device does not agree within 0.5 degrees Celsius during the daily verification, corrective action must be taken.
- (10) Mechanical volumetric liquid-dispensing devices (e.g., fixed and adjustable auto-pipettors and bottle-top dispensers) shall be calibrated at least once every twelve months.
- (11) Supervisors of laboratories certified only for Field Parameters shall:
 - (A) meet the requirements of Part (a)(3)(A) or (a)(3)(B) of this Rule;
 - (B) possess a chemistry or related degree with two years of related environmental experience or an equivalent combination of education and work experience; or
 - (C) hold any Water Pollution Control System Operator's Certification as defined by 15A NCAC 08G.

Supervisors shall provide personal and direct supervision of the technical personnel and shall be responsible for adherence to all requirements in this Rule. If the supervisor will be absent, the supervisor shall arrange for a substitute capable of insuring adherence to all requirements in this Rule. The substitute supervisor shall not be in charge for more than 12 consecutive weeks.
- (12) A certified Field Laboratory shall be subject to inspections during the Certification period and shall make all records pursuant to this Section available for inspection.

- (13) A certified Field Laboratory shall supply copies of all records pursuant to this Section for any investigation upon written request by the State Laboratory.
- (14) A certified Field Laboratory shall pay all applicable fees in accordance with Rule .0806 of this Section.
- (15) Application. Each Field Laboratory requesting initial Certification shall submit an application to the State Laboratory that includes the laboratory name, contact information, EPA laboratory code number, permit number(s), laboratory supervisor information, analytical methods, and equipment. The application may be obtained by request from the State Laboratory or on the State Laboratory website at <https://deq.nc.gov/about/divisions/water-resources-data/water-sciences-home-page/laboratory-certification-branch/application-forms-0>.
- (16) Proficiency Testing. Each certified Field Laboratory shall be in accordance with Subparagraph (a)(2) of this Rule.
- (17) Data Reporting. Each certified Field Laboratory shall be in accordance with Paragraph (e) of this Rule.
- (18) Issuance of Certification. A Field Laboratory shall be issued Certification in accordance with Paragraph (b) of this Rule.
- (19) Maintenance of Certification. A certified Field Laboratory shall submit written notice of any changes in the laboratory supervisor, location, ownership, address, name, and telephone number within 30 days of such changes.
- (20) Certification Renewals. Certification renewals of certified Field Laboratories shall be issued in accordance with Paragraph (d) of this Rule.
- (21) Discontinuation of Certification. A certified Field Laboratory may discontinue Certification in accordance with Paragraph (f) of this Rule.
- (22) Decertification. A certified Field Laboratory may be decertified and must meet all Decertification requirements for infractions in accordance with Rule .0807 of this Section.
- (23) Civil Penalties. Civil Penalties may be assessed against a certified Field Laboratory that violates or fails to act in accordance with any of the terms, conditions, or requirements of the Rule .0807 of this Section.
- (24) Recertification. A decertified Field Laboratory may be recertified in accordance with Rule .0808 of this Section.

RRC Objection Eff. October 15, 1992 due to lack of statutory authority;
Amended Eff. December 21, 1992;
RRC Objection Removed Eff. December 16, 1993;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. August 1, 2002;
Readopted Eff. July 1, 2019.

15A NCAC 02H .0806 FEES ASSOCIATED WITH CERTIFICATION PROGRAM

- (a) An applicant for laboratory Certification, excluding those laboratories seeking only Field Parameter Certification, shall submit to the Department of Environmental Quality, Division of Water Resources, Water Sciences Section, a non-refundable fee of three hundred dollars (\$300.00) with each application.
- (b) Municipal, Industrial, and Other Laboratories shall pay an annual fee of eighty-five dollars (\$85.00) for each Parameter as instructed on the invoice; however, the minimum fee shall be one thousand seven hundred fifty dollars (\$1,750) per year. Municipal Laboratories may cost-share among Municipal Laboratories or charge a cost recovery fee or surcharge to operate their Pretreatment Program.
- (c) Commercial Laboratories shall pay an annual fee of eighty-five dollars (\$85.00) for each Parameter as instructed on the invoice; however, the minimum fee will be three thousand five hundred dollars (\$3,500) per year.
- (d) Prior to receiving initial Certification, a Field Laboratory shall pay the required fee as specified in Paragraph (k) or (l) of this Rule and all other laboratories shall pay the required fee as specified in Paragraph (b) or (c) of this Rule. Excluding Field Laboratories, the Certification fee shall be prorated on a quarterly basis. All Certification renewals shall be due on the first day of January.
- (e) Once certified, Field Laboratories shall pay a fifty dollar (\$50.00) administrative fee for each Parameter Method added to their Certified Parameters Listing, and all other laboratories shall pay the full annual Parameter fee for each Parameter Method added to their Certified Parameters Listing.
- (f) A laboratory decertified for all Parameters shall pay initial Certification fees prior to Recertification.
- (g) A laboratory decertified for one or more Parameter Methods shall pay a fee of two hundred dollars (\$200.00) for each Parameter Method for which it was decertified prior to Recertification.
- (h) Out-of-state laboratories shall reimburse the State for actual travel and subsistence costs incurred by laboratory certification staff to perform inspections, provide technical assistance or investigate complaints. Out-of-state laboratories shall also be assessed for expenses for an on-site inspection based on the hourly rate of the laboratory certification staff, rounded to the nearest hour and inclusive of preparation time, travel time, and inspection time.
- (i) Annual Certification fees shall be due 60 days after receipt of invoice.
- (j) A fifty dollar (\$50.00) late payment fee shall be paid by Field Laboratories when annual Certification fees have not been paid by the date due. For all other laboratories, a two hundred fifty dollar (\$250.00) late payment fee shall be paid when annual Certification fees are not paid by the date due.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.6A;
Eff. February 1, 1976;
Amended Eff. July 1, 1988; July 1, 1985; December 1, 1984;
November 1, 1978;

(k) Commercial Laboratories analyzing only samples for Field Parameters shall pay an annual fee of three hundred dollars (\$300.00) per year.

(l) Municipal, Industrial, and Other Laboratories analyzing only samples for Field Parameters shall pay an annual fee of one hundred fifty dollars (\$150.00) per year.

(m) A laboratory that voluntarily discontinues Certification shall pay all applicable Certification fees as specified in Paragraphs (a), (b), (c), (d), (k), and (l) of this Rule prior to regaining Certification.

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

Eff. February 1, 1976;

Amended Eff. November 2, 1992; December 1, 1984;

Temporary Amendment Eff. October 1, 2001;

Amended Eff. August 1, 2002;

Readopted Eff. July 1, 2019.

15A NCAC 02H .0807 DECERTIFICATION AND CIVIL PENALTIES

(a) Laboratory Decertification. The following infractions may result in a laboratory being decertified pursuant to Paragraph (d) of this Rule for any or all Parameters for up to one year:

- (1) Failing to maintain the facilities, records, personnel, equipment, or a quality control program as set forth in these Rules;
- (2) Submitting inaccurate data or other information subject to these Rules;
- (3) Failing to pay required fees by the date due;
- (4) Failing to discontinue supplying data to clients or programs that require monitoring under G.S. 143, Article 21 during periods when a Decertification is in effect;
- (5) Failing to submit a Split Sample to the State Laboratory as requested;
- (6) Failing to use approved methods of analysis;
- (7) Failing to report a change of laboratory supervisor within 30 calendar days;
- (8) Failing to report an analysis of required annual Proficiency Testing Samples submitted by a State Laboratory-approved Vendor within the specified time limit;
- (9) Failing to allow an inspection by an authorized representative of the State Laboratory;
- (10) Failing to supply all records and analytical data requested by the State Laboratory;
- (11) Failing to submit a written notification within 30 days of applicable changes pursuant to Rule .0805(a)(6), (a)(7), and (g)(19) of this Section;
- (12) Failing to meet requirements for sample holding times and preservation;
- (13) Failing to respond to requests for information by the date due;
- (14) Failing to comply with any other terms, conditions, or requirements of this Section or of laboratory Certification;
- (15) Altering or modifying the laboratory's certificate or Certified Parameters Listing;

(16) Sharing or comparing Proficiency Testing Sample results with other laboratories prior to the study reporting deadline;

(17) Splitting, sending, or subcontracting a Proficiency Testing Sample or a portion of a Proficiency Testing Sample to another laboratory unless the practice represents the routine analysis and reporting scheme utilized by the laboratories;

(18) Knowingly receiving and analyzing any Proficiency Testing Sample or portion of a Proficiency Testing Sample from another laboratory for which the results of the Proficiency Testing Sample are intended for use by that laboratory for initial or continued Certification;

(19) Obtaining or attempting to obtain the assigned value of any Proficiency Testing Sample used to satisfy initial or continued Certification requirements prior to the closing date of the study; and

(20) Failing to correct findings in an inspection report.

(b) Parameter Method Decertification. The laboratory may be decertified pursuant to Paragraph (d) of this Rule for a Parameter Method for:

- (1) obtaining two consecutive Unacceptable Proficiency Testing Sample results; or
- (2) obtaining two consecutive unacceptable Split Sample results.

(c) Falsified Data. A laboratory that submits Falsified Data or Information may be decertified pursuant to Paragraph (d) of this Rule for all Parameters for up to two years and may be recertified per Rule .0808 of this Section.

(d) Decertification Factors. Decertification for periods up to the maximum, as determined by the Commission or assigned delegate, shall be based on any one or a combination of the factors set forth at G.S. 143B-282.1(b).

(e) Conditions of Decertification.

- (1) A laboratory shall not analyze, test, measure, or monitor any samples regulated under G.S. 143, Article 21 by the decertified Parameter Method.
- (2) A decertified Commercial Laboratory shall supply written notification of its Decertification to clients that are required to report to the Department of Environmental Quality under G.S. 143, Article 21. Within 30 days of Decertification, the decertified laboratory shall provide the State Laboratory with a list of those clients and copies of the notices sent to each.
- (3) A Commercial Laboratory that has received a Parameter Method Decertification shall supply written notification of the Parameter Method Decertification to clients that are required to report to the Department of Environmental Quality under G.S. 143, Article 21. The laboratory may also make arrangements to supply analysis through another laboratory certified by the State Laboratory for the same

Parameter(s) during any Decertification period. Within 30 days of Decertification, the laboratory shall supply the State Laboratory with a list of clients involved, copies of the notices sent to each, and the name and Certification number of the certified laboratory to be used during the Decertification period.

- (4) A Commercial Laboratory decertified for all Parameters shall not subcontract samples for analyses to other certified laboratories during the Decertification period.
- (5) A Municipal or Industrial Laboratory that has received a Parameter Method Decertification shall have samples requiring that Parameter Method analyzed by another laboratory certified by the State Laboratory for the contracted Parameter Method during any Decertification period. Within 30 days of Decertification, the decertified laboratory shall supply the State Laboratory with the name and Certification number of the certified laboratory to be used during the Decertification period.

(f) Civil Penalties. Civil penalties may be assessed against a laboratory that violates or fails to act in accordance with any of the terms, conditions, or requirements of the rules in this Section. Civil penalties up to the maximum may be based on any one or a combination of the factors in Paragraph (d) of this Rule.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.6A; 143B-282.1(b); Eff. February 1, 1976; Amended Eff. November 2, 1992; December 1, 1984; Temporary Amendment Eff. October 1, 2001; Amended Eff. August 1, 2002; Readopted Eff. July 1, 2019.

15A NCAC 02H .0808 RECERTIFICATION

(a) A laboratory decertified in accordance with Rule .0807(a) of this Section shall be recertified at the end of the Decertification period imposed by the Division pursuant to Rule .0807(a) and (d) of this Section by showing that it has corrected the deficiencies for which it was decertified.

(b) A laboratory decertified for a Parameter Method due to two consecutive Unacceptable Proficiency Testing Results or on two consecutive Split Samples shall be recertified at the end of the 30-day period by completing all of the following:

- (1) Report acceptable results on two consecutive Proficiency Testing Samples submitted by a State Laboratory-approved Vendor or report acceptable results on two consecutive Split Samples to the State Laboratory. Recertification samples may be requested from a State Laboratory-approved Vendor at any time within two years from the decertification effective date;
- (2) Submit a written request for Recertification;
- (3) Supply the State Laboratory with a description of corrective actions that includes the Root

Cause of the failure and the corrective action taken to prevent recurrence;

- (4) Pay the required fee as specified in Rule .0806(f) or (g) of this Section; and
- (5) Meet all the Decertification requirements in accordance with Rule .0807(e) of this Section.

(c) The Division shall treat any laboratory decertified for two years or longer for a Parameter Method as an initial Certification, as set forth in Rule .0805 of this Section.

(d) A laboratory decertified pursuant to Rule .0807(c) of this Section shall be recertified following the Decertification period set by Rule .0807(d) of this Section by demonstrating compliance with all requirements of this Section.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); Eff. February 1, 1976; Amended Eff. November 2, 1992; December 1, 1984; Temporary Amendment Eff. October 1, 2001; Amended Eff. August 1, 2002; Readopted Eff. July 1, 2019.

15A NCAC 02H .0809 RECIPROCITY

(a) Laboratories certified under certification programs of other states or other certification or accreditation bodies shall be given reciprocal Certification if such programs or certification or accreditation bodies meet the requirements of this Section. In requesting reciprocity Certification, laboratories shall include with the application required by Rule .0805(a) of this Section a copy of their certification, a copy of the last audit report from the certifying body, the laboratory's response to the audit report, the laboratory's scope of accreditation, and applicable regulations from the certifying agency.

(b) Laboratories certified by reciprocity shall pay the applicable fees required by Rule .0806 of this Section.

(c) If a laboratory's certification by another state's program or another certification or accreditation body is discontinued, the State Laboratory shall be notified and Certification under this Section shall be terminated at the same time.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); Eff. February 1, 1976; Amended Eff. November 2, 1992; December 1, 1984; Readopted Eff. July 1, 2019.

15A NCAC 02H .0810 ADMINISTRATION

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 150B-23; Eff. February 1, 1976; Amended Eff. November 2, 1992; July 1, 1988; December 1, 1984; November 1, 1978; Temporary Amendment Eff. October 1, 2001; Amended Eff. August 1, 2002; Repealed Eff. July 1, 2019.

15A NCAC 02H .0901 PURPOSE

(a) The rules in this Section are designed to implement North Carolina General Statutes 143-215.3(a)(14) and 143-215.1 and provisions of the Federal Water Pollution Control Act (also known as the "Clean Water Act" or "CWA") regarding the discharge of non-domestic wastewater into publicly owned treatment works (POTWs). They establish responsibilities of state and local government, industry, and the public to implement pretreatment standards to control pollutants that pass through or interfere with treatment processes in POTWs, may contaminate sewage sludge, or otherwise have an adverse impact on the POTW, its workers, or the environment.

(b) Copies of rules and regulations referenced in this Section may be obtained from the Division of Water Resources, Water Quality Permitting Section, free of charge, at the following locations:

- (1) <http://deq.nc.gov/about/divisions/water-resources/water-resources-permits/percs/pretreatment-permits>; and
- (2) the North Carolina Department of Environmental Quality, Division of Water Resources Offices of the Pretreatment, Emergency Response, and Collection Systems (PERCS) Unit
Physical Address: Archdale Building, 512 N. Salisbury St.
Raleigh, N.C. 27604
Mailing Address: 1617 Mail Service Center
Raleigh, N.C. 27699-1617.

History Note: Authority G.S. 143-215.3(a)(14); Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984; Readopted Eff. July 1, 2019.

15A NCAC 02H .0902 SCOPE

The rules of this Section apply to:

- (1) Pollutants from non-domestic sources covered by pretreatment standards that are indirectly discharged into or transported by truck or rail or otherwise introduced into POTWs as defined in 40 CFR 403.3 and Rule .0903 of this Section;
- (2) POTWs and control authorities that receive wastewater from sources subject to pretreatment standards; and
- (3) Any new or existing source subject to pretreatment standards.

The rules of this Section do not apply to sources that discharge to a sewer that is not connected to a POTW treatment plant.

History Note: Authority G.S. 143-215.3(a)(14); Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; Readopted Eff. July 1, 2019.

15A NCAC 02H .0903 DEFINITION OF TERMS

(a) Unless otherwise stated in Paragraph (b) of this Rule, the definitions promulgated by the Environmental Protection Agency and codified as 40 CFR 403.3 are hereby incorporated by

reference, including any subsequent amendments and editions. A copy of the reference material can be found at https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr403_main_02.tpl, free of charge.

(b) For this Section, the following additional definitions shall apply:

- (1) "Approval Authority" means the Director of the Division of Water Resources of the North Carolina Department of Environmental Quality, or his or her designee;
- (2) "Average" means the value calculated by dividing the sum of the data values collected over a time period by the number of data points that comprise the sum;
- (3) "Bypass" is the intentional diversion of waste streams from any portion of a pretreatment facility. Also see Rule .0919 of this Section and 40 CFR 403.17 for additional requirements;
- (4) "Commission" means the Environmental Management Commission of the North Carolina Department of Environmental Quality;
- (5) "Control Authority" refers to the POTW if the POTW'S pretreatment program has been approved in accordance with Rules .0905, .0906, and .0907 of this Section, and that approval has not been subsequently withdrawn. Otherwise, the approval authority is the control authority;
- (6) "Division" refers to the North Carolina Department of Environmental Quality, Division of Water Resources;
- (7) "Enforcement Response Plan" or "ERP" means the control authority pretreatment program document describing the guidelines for identifying violations of and enforcing specific local limits and other pretreatment standards and requirements;
- (8) "EPA" means the United States Environmental Protection Agency;
- (9) "Fundamentally Different Factors" are factors upon which a variance from a categorical standard may be granted under Rule .0912 of this Section and 40 CFR 403.13;
- (10) "Headworks Analysis" or "HWA" is the analysis used to calculate the maximum allowable POTW influent loadings for flow and pollutants of concern based on design capacity, NPDES or non-discharge permit limits, pass through, interference, sludge, or worker safety and health considerations, as applicable. The headworks analysis is the technical basis for deriving local limits applied to industrial users;
- (11) "Indirect Discharge" or "Discharge" refers to the introduction of pollutants into a POTW from any non-domestic source regulated under Sections 307(b), (c), or (d) of the Clean Water Act;

- (12) "Industrial User" or "User" means a source of indirect discharge;
- (13) "Industrial Waste Survey" or "IWS" refers to the survey of the users of the POTW collection system or treatment plant performed by the control authority as required by 40 CFR 403.8 (f)(2)(i-iii) and Rule .0905 of this Section, including identification of all industrial users and the character and amount of pollutants contributed to the POTW by these industrial users and identification of those industrial users meeting the definition of significant industrial user. Where the control authority accepts wastewater from one or more satellite POTWs, the IWS for that control authority shall address all satellite POTW services areas, unless the pretreatment program in those satellite service areas is administered by a separate control authority;
- (14) "Interference" refers to inhibition or disruption of the: POTW collection system; treatment processes; operations; or its sludge process, use, or disposal that causes or contributes to a violation of any requirement of the control authority's (or the POTW's if different from the control authority) NPDES, collection system, or non-discharge permit, including an increase in the magnitude or duration of a violation, or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits;
- (15) "Medical Waste" refers to isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes;
- (16) "Monitoring Plan" refers to the monitoring plan designed to collect POTW site-specific data for use in the headworks analysis. Monitoring plans may be designated as Long Term (LTMP) or Short Term (STMP) as the Division Director determines to be necessary;
- (17) "National Pretreatment Standard," "Pretreatment Standard," or "Standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Clean Water Act that applies to industrial users. This term also includes any prohibitive discharge limits established pursuant to 40 CFR 403.5, categorical standards established under the appropriate subpart of 40 CFR Chapter I, Subpart N or local limit that applies to an industrial user. 40 CFR 403.5, Chapters I and N of Part 405 of Title 40 of the Code of Federal Regulations are hereby incorporated by reference, including any subsequent amendments and editions available free of charge (https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr403_main_02.tpl);
- (18) "Net/Gross Calculation" is an adjustment of a categorical standard to reflect the presence of pollutants in the industrial user's intake water that may be granted under Rule .0915 of this Section and 40 CFR 403.15;
- (19) "Noncontact Cooling Water" is water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product;
- (20) "Non-discharge Permit" is a permit issued by the State pursuant to G.S. 143-215.1(d) for a waste that is not discharged directly to surface waters of the State or for a wastewater treatment works that does not discharge directly to surface waters of the State;
- (21) "Pass Through" means a discharge that exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the control authority's (or the POTW's, if different from the control authority) NPDES, collection system, or non-discharge permit;
- (22) "Pollutant" includes any waste defined in G.S. 143-213(18); dredged spoil; solid waste; incinerator residue; garbage; sewage sludge; munitions; medical wastes; chemical waste; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; municipal and agricultural waste; and certain characteristics of wastewater, such as pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor;
- (23) "Pollutant of Concern" or "POC" is a pollutant identified as being of concern to the control authority for purposes of the pretreatment program. A pollutant of concern may include a conventional wastewater pollutant, such as BOD, TSS, or ammonia; any of the priority pollutants; pH; and any pollutant that may be identified as a source of interference, pass through, whole effluent toxicity, or sludge contamination;
- (24) "POTW," or "Publicly Owned Treatment Works," means a treatment works as defined by Section 212 of the Clean Water Act, which is owned by a state or municipality. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes the collection system, as defined in 15A NCAC 02T .0402, only if it conveys wastewater to a POTW treatment plant. The term also means

- the municipality, as defined in Section 502(4) of the CWA, that has jurisdiction over indirect discharges to and the discharges from such a treatment works. The municipality may be the owner of the POTW treatment plant or the owner of the collection system into which an indirect discharger discharges. This second type of municipality may be referred to as a "satellite municipality," a "satellite POTW," or a "satellite POTW organization";
- (25) "POTW Director" means the chief administrative officer of the control authority or his or her delegate;
- (26) "Pretreatment" refers to the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW collection system or treatment plant. The reduction or alteration may be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR 403.6(d). Where wastewater from a regulated process is mixed with unregulated wastewater or with wastewater from another regulated process, the pretreatment limit must be calculated in accordance with 40 CFR 403.6(e);
- (27) "Process Wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product;
- (28) "Removal Credits" are credits that may be granted under Rule .0921 of this Section and 40 CFR Parts 403.7 and 403.11 to adjust categorical standards in such a way as to reflect POTW consistent removal of a particular pollutant;
- (29) "Sewer Use Ordinance" or "SUO" means the POTW or control authority organization ordinance providing the legal authority for administering the pretreatment program;
- (30) "Significant Industrial User" or "SIU" means an industrial user that discharges wastewater into a POTW and that:
- (A) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW excluding sanitary, noncontact cooling, and boiler blowdown wastewater;
 - (B) Contributes process wastewater that makes up five percent or more of the NPDES or non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, and ammonia;
- (C) Is subject to categorical standards under 40 CFR 403.6 and 40 CFR Chapter I, Subpart N;
- (D) is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation (including contributing to violations of the limitation and requirements of the NPDES or non-discharge permit or limiting the POTW's sludge disposal options) or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.3 (l) and (t));
- (E) Subject to approval under Rule .0907(b) of this Section, the control authority may determine that an industrial user meeting the criteria in Parts (A) or (B) of this Subparagraph has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or to limit the POTW's sludge disposal options, and thus is not a significant industrial user; or
- (F) Subject to approval under Rule .0907(b) of this Section, the control authority may determine that an industrial user meeting the criteria in Part (C) of this Subparagraph meets the requirements of 40 CFR 403.3(v)(2) and thus is a non-significant categorical industrial user;
- (31) "Significant Noncompliance" or "SNC" is the status of noncompliance of a significant industrial user when one or more of the following criteria are met, or any industrial user that meets the criteria in Parts (C), (D), or (H) of this Subparagraph:
- (A) "Chronic violations" of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l);
 - (B) "Technical Review Criteria" (TRC) violations, defined here as those in which 33 percent or more of all the measurements taken for the same

- pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil, and grease, 1.2 for all other pollutants (except flow and pH));
- (C) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l)(daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority (or POTW, if different from the control authority), determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health or welfare or to the environment or has resulted in either the control authority's or the POTW's, if different from the control authority, exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent the discharge;
- (E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a pretreatment permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to report noncompliance; or
- (H) Any other violation or group of violations that the control authority or POTW determines will adversely affect the operation or implementation of the local pretreatment program;
- (32) "Staff" means the staff of the Division of Water Resources, Department of Environmental Quality;
- (33) "Upset" means the same as set out in Rule .0914 of this Section and 40 Part 403.16;
- (34) "Wastewater" means the liquid and water-carried industrial or domestic wastes from

dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed to or permitted to enter the POTW; and

- (35) "Waters of the State" shall have the same meaning as the terms "waters" as defined in G.S. 143-212.

History Note: Authority 143-215.3(a)(1); 143-215.3(a)(14); Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984; Readopted Eff. July 1, 2019.

15A NCAC 02H .0904 REQUIRED PRETREATMENT PROGRAMS

(a) The regulations regarding pretreatment program development by the control authority promulgated by the EPA and codified as 40 CFR 403.8(a) through 403.8(e) are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CISubchapN.tpl>, free of charge.

(b) The Division may allow a control authority having a combined permitted flow less than or equal to two million gallons per day and less than four significant industrial users to develop and implement a modified pretreatment program that encompasses a portion of the requirements in Rules .0905 and .0906 of this Section, as designated by the Division Director. In making the decision to allow modified pretreatment program development and implementation, the Division Director shall consider factors including percent industrial flow, industrial waste characteristics, compliance status of the facility, and the potential for industrial growth.

History Note: Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(14); Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984; Readopted Eff. July 1, 2019.

15A NCAC 02H .0905 POTW PRETREATMENT PROGRAM IMPLEMENTATION REQUIREMENTS

(a) Except where specified differently in this Section, the POTW pretreatment program requirements promulgated by the EPA and codified as 40 CFR 403.8(f) and (g) are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CISubchapN.tpl>, free of charge.

(b) The implementation of a pretreatment program involves:

- (1) updating the SUO;
- (2) implementing IWS activities;

- (3) updating the HWA;
- (4) implementation of the LTMP or STMP;
- (5) implementation of compliance activities, including sampling and inspection of significant industrial users;
- (6) maintenance of control authority organization description, including staffing and funding information;
- (7) implementation of the ERP; and
- (8) reporting to the Division on pretreatment program activities.

History Note: Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(1); 143-215.3(a)(14); Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984; Readopted Eff. July 1, 2019.

15A NCAC 02H .0906 SUBMISSION FOR PRETREATMENT PROGRAM APPROVAL

(a) Except where specified differently in any part of this Section, the regulations regarding the contents of pretreatment programs submitted for approval and the contents of a request to revise national categorical pretreatment standards, promulgated by the EPA and codified as 40 CFR 403.9 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CisubchapN.tpl>, free of charge.

(b) In addition to the contents of a control authority pretreatment program submission described in Paragraph (a) of this Rule, the program submission shall contain:

- (1) a sewer use ordinance (SUO) providing the legal authority for implementing the pretreatment program, as required by 40 CFR 403.8 (f)(1) and Rule .0905 of this Section, along with the attorney's statement. Where the control authority accepts wastewater from one or more satellite POTWs and is the control authority within the satellite POTW's service area, the attorney's statement for that control authority shall document the interlocal agreements (ILAs) authorized by G.S. 153A-278 and 160A-460 and SUO sections that establish the control authority's authority for regulation within all satellite POTW services areas that are tributary to the control authority's POTW. Where a satellite POTW serves as the control authority within its service area, the attorney's statement for that control authority shall document the ILAs and SUO sections that establish the satellite POTW's authority for regulation within its service area and the requirements for the satellite POTW to implement its pretreatment program in accordance with the downstream POTW's SUO and the ILA. In either case, where the POTW

- organizations have other written procedures to outline responsibilities not covered by the ILA or SUO, the applicable attorney's statements shall also include documentation of these procedures and the source of their enforceability;
- (2) an industrial waste survey (IWS) as defined in Rule .0903 of this Section;
- (3) a monitoring plan to provide POTW site-specific data for the HWA and subsequent technical evaluations of local limits to satisfy the requirements of 40 CFR 122.21(j). Modified pretreatment programs developed under Rule .0904(b) of this Section shall be allowed to implement a short term monitoring plan (STMP);
- (4) a headworks analysis (HWA) and supporting documentation, including POTW site-specific and relevant literature data, upon which to base industrial user-specific effluent limits and other local limits for prohibited pollutants as defined in 40 CFR 403.5(a) and (b) and Rule .0909 of this Section;
- (5) a compliance monitoring program, including inspection, sampling, equipment, and other compliance procedures, which will implement the requirements of 40 CFR 403.8(f) and 403.12, and Rules .0905 and .0908 of this Section;
- (6) draft industrial user pretreatment permits for significant industrial users as required by 40 CFR 403.8(f)(1)(iii) and 403.9(b)(1)(ii) and Rule .0916 of this Section, and supporting documentation outlined in Rules .0916 and .0917 of this Section;
- (7) procedures for approving the construction of pretreatment facilities by industrial users and for permitting industrial users for construction, operation, and discharge as required by G.S. 143-215.1; procedures for approving construction shall include issuance of authorization to construct, as appropriate;
- (8) an enforcement response plan (ERP) as required by 40 CFR 403.8(f)(5) and 403.9(b)(1)(ii) for identifying violations of and enforcing specific local limits and other pretreatment requirements as required by and specified in 40 CFR 403.5 and 403.6 and Rules .0909 and .0910 of this Section;
- (9) a description (including organization charts) of the control authority that will administer the pretreatment program. Where more than one POTW organization is involved in the POTW wastewater collections or treatment system, the description shall address all the agencies, including identification of which party will receive industrial user applications for new and changed discharges and how the parties will

- communicate on significant industrial user determinations;
- (10) a description of funding levels and full- and part-time manpower available to implement the program;
- (11) a description of data management procedures for compiling and managing compliance, LTMP/STMP, and any other pretreatment-related monitoring data, including documentation of approval of electronic reporting procedures as required under 40 CFR Part 3 if applicable; and
- (12) a request for pretreatment program approval as required by 40 CFR 403.9 and this Section.

History Note: Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(1); 143-215.3(a)(14); Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984; Readopted Eff. July 1, 2019.

15A NCAC 02H .0907 PROCEDURES FOR PRETREATMENT PROGRAM APPROVAL, REVISION AND WITHDRAWAL

(a) Procedures for approval of a control authority pretreatment program and for removal credit authorization are as follows:

- (1) Except where specified differently in part of this Section, the approval procedures for control authority pretreatment programs and applications for removal credit authorization promulgated by the EPA and codified as 40 CFR 403.11 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CISubchapN.tpl>, free of charge; and
- (2) Upon program approval, a control authority is delegated, subject to the provisions of Rules .0916 and .0917 of this Section, the authority to issue the construction, operation, and discharge permits required by G.S. 143-215.1(a) for those significant industrial users discharging or proposing to discharge to the POTW.

(b) Either the Division or the control authority may initiate program revisions. The control authority shall submit a request to the Division for approval of modifications to its approved pretreatment program, including its legal authority (SUO or ILA), HWA, LTMP or STMP, ERP, summary of IWS activities, and revisions to the list of SIUs. Revisions to an approved pretreatment program shall be accomplished as follows:

- (1) the control authority shall submit a modified program description, an attorney's statement if the legal authority of the program is being modified, and other documents as the Division Director determines to be necessary under the

circumstances. The attorney's statement may consist of verification that the North Carolina model pretreatment sewer use ordinance is proposed for adoption by the control authority, if that is the case;

- (2) whenever the Division Director determines that the proposed program modifications are substantial as defined in 40 CFR 403.18(b), the Division shall issue public notice and provide an opportunity for public comment as described in Rules .0109 and .0110 of this Subchapter. Public notices issued by the control authority are deemed sufficient notice;
- (3) the Division Director or his or her delegate shall approve or disapprove program revisions based on the requirements of this Section, G.S. 143-215.1, G.S. 143-215.3 and the National Pollutant Discharge Elimination System Memorandum of Agreement between the State of North Carolina and the United States Environmental Protection Agency Region 4; and
- (4) A pretreatment program revision shall become effective upon written approval of the Division Director, except as follows:
 - (A) Pretreatment permits shall become effective as set forth in in Rule .0917(d) of this Section; and
 - (B) The Division shall have 30 days from the receipt of a request for deletion of SIUs from the SIU list to make comments upon, objections to, or recommendations with respect to the request. Unless such an objection or request for more information is made, the request shall be final and binding.
- (c) The Division Director may withdraw pretreatment program approval when a control authority no longer complies with requirements of this Section and the control authority fails to take corrective action. The following procedures apply when the Division Director determines that program withdrawal may be needed:
 - (1) The Division Director shall give the control authority 180 days notice of the program withdrawal;
 - (2) the control authority shall submit within 60 days of the notice a plan for the transfer of all relevant program information not in the possession of the Division (such as permit files, compliance files, reports, and permit applications) necessary for the Division to administer the pretreatment program;
 - (3) within 60 days of the receipt of the control authority transfer plan, the Division Director shall evaluate the control authority plan and shall identify any additional information needed by the Division for program administration or identify any other deficiencies in the plan; and

- (4) at least 30 days before the program withdrawal, the Division Director shall publish public notice of the program transfer and shall mail notice to all pretreatment permit holders of the control authority.

(d) Applications for removal credit authorization shall be made in accordance with procedures established by this Rule. Approval shall become effective upon written approval of the Division Director.

(e) A pretreatment program shall be considered inactive by the Division when significant industrial users no longer discharge to the POTW, based on modifications of the control authority pretreatment program approved by the Division. Inactive approved pretreatment programs shall notify the Division when a significant industrial user proposes to discharge to the POTW. When required by the Division to return to active status, a control authority shall be required to update any or all of the requirements listed in Rule .0906 of this Section that no longer meet the standards of these Rules. The control authority shall obtain Division approval of the reactivation under this Rule prior to commencement of discharge of the significant industrial user.

History Note: Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(c); 143-215.3(a)(3); 143-215.3(a)(14); 143-215.3(e); Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984; Readopted Eff. July 1, 2019.

15A NCAC 02H .0908 REPORTING/RECORD KEEPING REQUIREMENTS FOR POTWS/INDUSTRIAL USERS

(a) Except where specified differently with any part of this Section, the regulations regarding the reporting requirements for control authorities and industrial users promulgated by the EPA and codified as 40 CFR 403.8(g) and 403.12 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CISubchapN.tpl>, free of charge.

(b) Control authorities with active approved pretreatment programs shall submit once per year a pretreatment report describing its pretreatment activities over the previous 12 months. Two copies of each pretreatment report shall be submitted to the Division by March 1 of each year for activities conducted for two six-month periods, January 1 through June 30 and July 1 through December 31 of the previous year. This annual report shall contain the following information in accordance with forms provided by the Division:

- (1) a written summary of actions taken by the control authority to ensure compliance with pretreatment requirements;
- (2) a pretreatment program summary on forms or in a format provided by the Division;
- (3) a list of industrial users in significant noncompliance with pretreatment requirements, the nature of the violations, and actions taken or proposed to correct the

violations on forms or in a format provided by the Division;

- (4) an allocation table as described in Rule .0916(c)(4) of this Section; and

- (5) other information the Division Director determines is needed to determine compliance with the implementation of the pretreatment program, including significant industrial user compliance schedules, public notice of industrial users in significant noncompliance, a summary of significant industrial user effluent monitoring data as described in Paragraphs (a) and (e) of this Rule, a summary of information related to significant non-compliance determination for industrial users that are not considered significant industrial users, and Long or Short Term Monitoring Plan data on forms or in a format provided by the Division.

(c) In lieu of submitting annual reports as described in Paragraph (b) of this Rule, the Division Director may allow modified pretreatment programs developed under Rule .0904(b) of this Section to submit only a partial annual report, or to meet with Division personnel as required to discuss enforcement of pretreatment requirements and other pretreatment implementation issues.

(d) Inactive pretreatment programs are not required to submit the report described in Paragraphs (b) and (c) of this Rule. Inactive approved pretreatment programs shall notify the Division when a significant industrial user proposes to discharge to the POTW and shall comply with Rule .0907 of this Section.

(e) Samples shall be collected and analyzed by the control authority independent of the industrial users for each significant industrial user as follows:

- (1) A minimum of once each year for all permit-limited parameters including flow, except as follows:

(A) Independent monitoring of the industrial user by the control authority is not required for pollutants that are limited by a categorical standard for which specific certification or other alternative procedures apply where the industrial user submits the required documentation for that certification or procedure, even if the industrial user chooses to monitor in addition to using certification or other alternative procedures;

(B) The minimum frequencies in this Subparagraph shall be reduced by half, as set forth in 403.8(f)(2)(v)(C), for all permit-limited parameters for a significant industrial user determined by the control authority, subject to approval under Rule .0907 of this Section, to fit the criteria of a middle tier categorical industrial user under 40 CFR 403.12(e)(3); and

- (C) For categorical parameters with monitoring waived under 40 CFR 403.12(e)(2), a minimum of once during the term of the applicable significant industrial user pretreatment permit as set forth in 40 CFR 403.8(f)(2)(v)(A); and
- (2) If the control authority elects to sample and analyze in lieu of the industrial user, the control authority shall collect and analyze for the required parameters and, if applicable, in accordance with categorical standards.
- (f) Records Retention:
- (1) Control authorities and industrial users shall retain for three years records of monitoring activities and results, along with supporting information including annual pretreatment reports, general records, water quality records, and records of industrial user impact on the POTW;
 - (2) Other documents required by any rule of this Section (including supporting information) for other pretreatment program elements, such as pretreatment permits (IUPs), HWAs, SUOs, ERPs, etc., shall be retained for three years after the document has expired, been updated, or replaced;
 - (3) A summary of all significant industrial user effluent monitoring data reported to the control authority by the industrial user or obtained by the control authority shall be maintained on forms or in a format provided by the Division for review by the Division; and
 - (4) Laboratory records shall be maintained as set forth in Rule .0805 of this Subchapter.
- (g) In the case where the receiving POTW treatment plant is not owned by the same local governmental organization as the control authority, all information required to be reported to the industrial user's control authority by this Section shall also be submitted to the POTW treatment plant governmental organization.
- (h) In the case where the control authority accepts electronic reporting, the reporting shall comply with 40 CFR Part 3, and the control authority shall maintain documentation of approval as required under 40 CFR Part 3.

History Note: Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.2; 143-215.3(a)(2); 143-215.3(a)(14); 143-215.6(a)(1); Eff. March 28, 1980;

Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;

Readopted Eff. July 1, 2019.

15A NCAC 02H .0909 NATIONAL PRETREATMENT STANDARDS: PROHIBITED DISCHARGES

The regulations regarding national prohibited pretreatment standards and local limits development and enforcement promulgated by the EPA and codified as 40 CFR 403.5 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at

<http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CISubchapN.tpl>, free of charge.

History Note: Authority G.S. 143-215.1(a)(7); 143-215.1(b); 143-215.3(a)(1); 143-215.3(a)(14);

Eff. March 28, 1980;

Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;

Readopted Eff. July 1, 2019.

15A NCAC 02H .0910 NATIONAL PRETREATMENT STANDARDS: CATEGORICAL STANDARDS

The regulations regarding national categorical pretreatment standards promulgated by the EPA and codified pursuant to 40 CFR 403.6 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CISubchapN.tpl>, free of charge.

History Note: Authority G.S. 143-215.1(a)(7); 143-215.1(b); 143-215.3(a)(14);

Eff. March 28, 1980;

Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;

Readopted Eff. July 1, 2019.

15A NCAC 02H .0912 ADJUSTMENTS FOR FUNDAMENTALLY DIFFERENT FACTORS

The regulations regarding variances from national categorical pretreatment standards for fundamentally different factors promulgated by the EPA and codified as 40 CFR 403.13 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CISubchapN.tpl>, free of charge.

History Note: Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(b); 143-215.3(a)(14); 143-215.3(e);

Eff. March 28, 1980;

Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;

Readopted Eff. July 1, 2019.

15A NCAC 02H .0913 PUBLIC ACCESS TO INFORMATION

(a) Information and data provided by an industrial user to the POTW Director pursuant to this Section, identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information submitted by an industrial user to the POTW Director in connection with any required reports shall also be available to the public, unless the industrial user specifically identifies the information as confidential upon submission and is able to demonstrate that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

(b) Information and data provided by an industrial user to the Division Director shall be subject to the processes set forth in G.S. 143-215.3C.

(c) Information provided by an industrial user to a control authority that is determined to be entitled to confidential treatment shall be made available upon written request to the Division or any State agency for uses related to the pretreatment program, the NPDES permit, collection system permit, stormwater permit, or non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.

(d) Information and data received by the Division or other State agency under Paragraph (c) of this Rule shall be subject to the processes set forth in G.S. 143-215.3C.

History Note: Authority G.S. 132-1.2; 132-6; 132-9; 143-215.1; 143-215.3; 143-215.3C;

Eff. March 28, 1980;

Amended Eff. April 1, 2011; October 1, 1987;

Readopted Eff. July 1, 2019.

15A NCAC 02H .0914 UPSET PROVISION

The upset provision promulgated by the EPA and codified as 40 CFR 403.16 is hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CISubchapN.tpl>, free of charge.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(14);

Eff. December 1, 1984;

Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987;

Readopted Eff. July 1, 2019.

15A NCAC 02H .0915 NET/GROSS CALCULATION

The net/gross calculation provisions promulgated by the EPA and codified as 40 CFR 403.15 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CISubchapN.tpl>, free of charge.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(14);

Eff. December 1, 1984;

Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987;

Readopted Eff. July 1, 2019.

15A NCAC 02H .0916 PRETREATMENT PERMITS

(a) All significant industrial users who discharge waste into a POTW shall obtain a permit from the control authority.

(b) Where the Division is the control authority, permits shall be issued in accordance with Section .0100 of this Subchapter.

(c) Where the control authority is a POTW, significant industrial user permits shall be issued as follows:

(1) Application: any significant industrial user required to obtain a permit in Paragraph (a) of this Rule shall be required to complete, sign, and submit to the control authority a permit application. Application fees and procedures may be prescribed by the control authority. All pretreatment permit applications shall include as a minimum:

- (A) the name of industrial user;
- (B) the address of industrial user;
- (C) the standard industrial classification (SIC) code(s) or expected classification and industrial user category;
- (D) the wastewater flow;
- (E) the types and concentrations (or mass) of pollutants contained in the discharge;
- (F) the products manufactured or services supplied;
- (G) a description of existing on-site pretreatment facilities and practices;
- (H) the locations of discharge points;
- (I) the raw materials used or stored at the site;
- (J) a flow diagram or sewer map for the industrial user;
- (K) the number of employees; and
- (L) the operation and production schedules.

The application shall include a written description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g). The written description shall not be considered part of the permit application and shall not serve as a basis for denial of a permit.

(2) Renewals: Applications for pretreatment permit renewals shall be accomplished by filing an application form as listed in Subparagraph (c)(1) of this Rule prior to permit expiration. The number of days prior to expiration by which the application shall be filed shall be established by the control authority.

(3) Review and Evaluation:

- (A) The POTW Director is authorized to accept applications for the Commission and shall refer all applications to the control authority staff for review and evaluation;
- (B) The POTW Director shall acknowledge receipt of a complete application, or if not complete, shall return the application to the applicant with a statement of what additional information is required;
- (C) The control authority staff shall include documentation of the most recent on-site inspection of the industrial user and any existing

- wastewater pretreatment system as part of the permit record for new and renewed permits; and
- (D) The control authority staff shall conduct an evaluation and make a tentative determination to issue or deny the permit. If the control authority staff's tentative determination is to issue the permit, it shall make the following additional determinations in writing and transmit them to the industrial user:
- (i) proposed effluent limitations for those pollutants proposed to be limited;
 - (ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations; and
 - (iii) a description of any other proposed special conditions;
- The control authority staff shall organize the determinations made into a pretreatment permit.
- (4) Permit supporting documentation. The control authority staff shall prepare the following documents for all significant industrial user permits:
- (A) An allocation table (AT) listing permit information for all significant industrial users, including permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format provided by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised;
 - (B) The basis, or rationale, for the pretreatment limitations, including documentation of categorical determination, including documentation of any calculations used in applying categorical standards; and
 - (C) Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.1(e)(2).
- (5) Final Action on Permit Applications:
- (A) The POTW Director shall take final action on all applications by either issuing a pretreatment permit or by denying the discharge not later than 90 days following the receipt of a complete application. If, following the 30-day period required by Rules .0917(d) and .0922 of this Section, no written demand for hearing, objection, or request for more information under Rule .0917(g)(2) of this Section has been made, the permit shall become final and binding;
 - (B) The POTW Director is authorized to:
 - (i) issue a permit containing such conditions as are necessary to effectuate the purposes of G.S. 143-215.1;
 - (ii) issue a permit containing time schedules for achieving compliance with applicable pretreatment standards and limitations and other legally applicable requirements;
 - (iii) modify or revoke any permit pursuant to Subparagraph (c)(6) of this Rule;
 - (iv) deny a permit application; and
 - (v) issue permits to industrial users not identified as significant industrial users using procedures prescribed by the control authority;
 - (C) Permits shall be issued or renewed for a period of time deemed reasonable by the POTW Director but in no case shall the period exceed five years; and
 - (D) The POTW Director shall notify an applicant by certified or registered mail of the denial of his or her permit application. Notifications of denial shall specify the reasons for the denial and the proposed changes that in the opinion of the POTW Director will be required to obtain the permit.
- (6) Modification and Revocation of Permits:
- (A) Any permit issued pursuant to this Rule is subject to revocation or modification in whole or part as outlined in the control authority's sewer use ordinance; and
 - (B) Modifications of permits may be initiated by the control authority or the significant industrial user and shall be subject to the same procedural requirements as the issuance of permits. Permit modification requests made by the significant industrial user must be made in writing and can be by letter or by application form as determined by the control authority.

- (7) Permit effective dates and modification effective dates shall not be retroactive.

History Note: Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(c); 143-215.1(g); 143-215.3(a)(3); 143-215.3(a)(14); 143-215.3(e);
Eff. October 1, 1987;
Amended Eff. April 1, 2011; November 1, 1994;
Readopted Eff. July 1, 2019.

15A NCAC 02H .0917 PRETREATMENT PERMIT SUBMISSION AND REVIEW

(a) Each control authority shall transmit to the Division copies of all significant industrial user pretreatment permits 30 days prior to the effective date.

(b) Permits and permit renewal submissions to the Division for significant industrial users shall include the supporting information listed in this Paragraph. Permit modification submissions for significant industrial users shall include updated versions of this supporting information listed in this Paragraph, as applicable to that modification:

- (1) the rationale for limits and allocation table required by Rule .0916(c)(4) of this Section;
- (2) a copy of the completed application required in Rule .0916(c)(1) of this Section; and
- (3) a copy of the record of the inspection required in Rule .0916(c)(3)(C) of this Section.

(c) The Division Director may waive some or all of the requirements in Paragraphs (a) and (b) of this Rule. In making the decision to waive these requirements, the Division Director shall consider factors, including training levels of control authority staff, quality of previous pretreatment permit submissions, percent maximum allowable headworks loading capacity remaining, percent industrial user flow, industrial user waste characteristics, and compliance status of the POTW and its respective environmental permits.

(d) The Division shall have 30 days from the receipt of pretreatment permits to make comments upon, objections to, or recommendations with respect to the permit. Unless such an objection or request for more information in accordance with Paragraph (g) of this Rule is made, the permit shall be final and binding.

(e) Within 30 days of the receipt of a pretreatment permit the Division Director objected to, the Division staff shall set forth in writing and transmit to the control authority:

- (1) a statement of the reasons for the objection, including the rules or regulations that support the objection; and
- (2) the actions that shall be taken by the control authority to eliminate the objection, including the effluent limitations and conditions the permit would include if it were issued by the Division.

(f) The Division Director's objection to the issuance of a pretreatment permit shall be based upon one or more of the following grounds:

- (1) the permit fails to apply or to ensure compliance with any applicable requirement of this Section;

(2) the procedures followed in connection with formulation of the pretreatment permit failed to comply with the procedures required by State statute or by the control authority's approved pretreatment program;

(3) a finding made by the control authority in connection with the pretreatment permit misinterprets any categorical standard or pretreatment regulation or misapplies it to the facts; and

(4) the provisions of the pretreatment permit relating to the maintenance of records, monitoring or sampling by the control authority and the industrial user are, in the judgment of the Division Director, inadequate to assure compliance with permit conditions or applicable pretreatment standards;

(g) Prior to notifying the control authority of an objection, the Division Director:

- (1) shall consider all data transmitted pursuant to Rule .0916 of this Section and this Rule;
- (2) if more information is needed to determine whether the permit is adequate, may request the control authority to make available to the Division staff the complete record of permit proceedings, or any portions of the record that the Division Director determines are necessary for review. Requests shall be made within 30 days of the Division's receipt of the permit under Rule .0916 of this Section, and shall suspend the 30-day review period in Paragraph (d) of this Rule. When the Division staff has obtained the requested records or portions of the record, the Division staff shall have an additional 30 days for review; and
- (3) to the extent feasible within the period of time available, may afford interested persons the opportunity to comment on the basis for the objection.

(h) If within 60 days of the receipt of the Division Director's objection, the control authority does not resubmit a permit revised to meet the Division Director's objection, the Division Director may issue the permit in accordance with Section .0100 of this Subchapter. Exclusive authority to issue the permit required by G.S. 143-215.1(a) passes to the Division when this time expires.

History Note: Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(c); 143-215.3(a)(3); 143-215.3(a)(14);
Eff. October 1, 1987;
Amended Eff. April 1, 2011; November 1, 1994;
Readopted Eff. July 1, 2019.

15A NCAC 02H .0918 LOCAL LAW

Nothing in the rules of this Section is intended to affect any pretreatment requirements, including any standards or prohibitions, established by local law as long as the local requirements are not less stringent than any set forth in National Pretreatment Standards, or any other requirements or prohibitions

established under the Clean Water Act, the North Carolina General Statutes, or the rules of this Section.

History Note: Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(1); 143-215.3(a)(14); 153A-274; 153A-275; 160A-311; 160A-312;
Eff. November 1, 1994;
Readopted Eff. July 1, 2019.

15A NCAC 02H .0919 BYPASS

The regulations regarding the bypass provisions promulgated by the EPA and codified as 40 CFR 403.17 are hereby incorporated by reference. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CISubchapN.tpl>, free of charge.

History Note: Authority G.S. 143-215.1(a)(1); 143-215.3(a)(14);
Eff. November 1, 1994;
Amended Eff. March 1, 2011;
Readopted Eff. July 1, 2019.

15A NCAC 02H .0920 PRETREATMENT FACILITY OPERATION AND MAINTENANCE

History Note: Authority G.S. 143-215.3;
Eff. November 1, 1994;
Amended Eff. April 1, 2011;
Repealed Eff. July 1, 2019.

15A NCAC 02H .0921 REVISION TO REFLECT POTW REMOVAL OF POLLUTANT

The regulations regarding removal credits promulgated by the EPA and codified as 40 CFR 403.7 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CISubchapN.tpl>, free of charge.

History Note: Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(14);
Eff. November 1, 1994;
Amended Eff. March 1, 2011;
Readopted Eff. July 1, 2019.

15A NCAC 02H .0922 HEARINGS

(a) The control authority sewer use ordinance (SUO) and attorney's statement required under Rule .0906(b)(1) shall provide for the enforcement and compliance with its pretreatment program in accordance with the provisions of G.S. 160A-175 for municipalities, G.S. 153A-123 for counties, G.S. 162A-9.1 for water and sewer authorities, and G.S. 162A-81 for metropolitan sewerage districts. This shall include:

- (1) providing industrial users assessed civil penalties by the control authority for violations of its pretreatment program with the opportunity to request review of the penalty in

- (2) accordance with the provisions of G.S. 143-215.6A(k); and providing industrial users the opportunity to request review of other actions taken by the control authority to administer and enforce its pretreatment program. Such control authority actions may include denial or termination of a pretreatment permit or other permission to discharge, issuance of a permit or other permission to discharge subject to conditions the industrial users deems unacceptable, and the issuance of an administrative order subject to conditions the industrial users deems unacceptable. The opportunity to request review may include the right to request a review of a control authority action with the local government as established in that local government's SUO, or to request a review by the superior court having local jurisdiction.

(b) If the control authority elects to provide industrial users with the opportunity for local government reviews under Subparagraphs (a)(1) and (a)(2) of this Rule, the control authority may establish procedures and requirements for the review process. These procedures may include the number of days after receipt of an action by which the industrial user must request the review, the contents or form of the request, and which party or parties will conduct local government hearings.

History Note: Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(c); 143-215.2(b); 143-215.3(a)(3); 143-215.3(a)(14); 143-215.6A(j); 143-215.6A(k);
Eff. April 1, 2011;
Readopted Eff. July 1, 2019.

15A NCAC 02H .1101 PURPOSE

These Rules set forth the requirements for certification of commercial, industrial, and public laboratories to perform biological toxicity testing and aquatic population surveys of water and wastewater as required by G.S. 143-215.3(a) and 15A NCAC 02B .0200 and .0500. These Rules establish an EPA-designated program for the State to implement the Clean Water Act, as set forth in 33 U.S.C. 1318 and 1319.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215(c); 143-215.66;
Eff. October 1, 1988;
Amended Eff. March 1, 1993;
Readopted Eff. July 1, 2019.

15A NCAC 02H .1102 SCOPE

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66;
Eff. October 1, 1988;
Repealed Eff. July 1, 2019.

15A NCAC 02H .1103 DEFINITIONS

The following terms as used in this Section shall have the assigned meaning:

- (1) "Approved Procedure" means an analytical procedure developed by the State Laboratory based upon 40 CFR 136.3 and subject to G.S. 143, Article 21, Part 1. A link to the approved procedures can be found at <https://deq.nc.gov/about/divisions/water-resources/water-resources-data/water-sciences-home-page/aquatic-toxicology-branch/downloads>.
- (2) "Aquatic population survey and analysis" means field sampling, laboratory identification, analysis, and metric derivation for determining biological integrity, as defined in 15A NCAC 02B .0202 for fish, aquatic macroinvertebrates, phytoplankton, and aquatic macrophytes using methods developed in accordance with 15A NCAC 02B .0103(b).
- (3) "Certification" means a declaration by the Division that personnel, equipment, records, quality control procedures, and methodology cited by the applicant complies with the rules in this Section.
- (4) "Commercial Laboratory" means any laboratory, including its employees and agents, that analyzes, for others, wastewater samples for toxicity measurements or for their impacts on the receiving waters.
- (5) "Decertification" means the loss of certification.
- (6) "Director" means the Director of the North Carolina Division of Water Resources.
- (7) "Division" means the North Carolina Division of Water Resources.
- (8) "Falsified data or information" means data or information that, whether by intent, or disregard for accuracy, has been altered, fabricated, recorded falsely or mischaracterized by omission or substitution.
- (9) "Industrial Laboratory" means a laboratory, including its employees and agents, operated by an industrial facility to analyze samples from its wastewater treatment plants for toxicity measurements or impacts to receiving waters or to conduct aquatic population surveys and analysis.
- (10) "Proficiency Testing sample" means a performance evaluation sample provided by the State Laboratory or a State Laboratory-approved vendor as defined in 15A NCAC 02H .0803(38), located at <https://nelac-institute.org/content/NEPT/ptproviders.php> to a commercial, industrial, or public laboratory as an unknown toxicant for measurement of toxicity, as an unknown analyte for measurement by laboratory equipment or wet chemistry methods, or as an unknown set of preserved organisms for identification to specified levels of taxonomic classification.

- (11) "Public Laboratory" means a laboratory, including its employees and agents, operated by a municipality, county, water and sewer authority, sanitary district, metropolitan sewerage district, or State or federal installation to analyze samples from its wastewater treatment plant(s) for toxicity measurements or resultant impacts to receiving waters.
- (12) "Split samples" for surface water effluent discharge, surface water, or phytoplankton means two or more representative portions taken from a single sampling device. For aquatic macrophytes or macroinvertebrates, split sample means a single sample that is analyzed by both the State Laboratory and by the commercial, public, or industrial laboratory.
- (13) "State laboratory" means the Water Sciences Section of the North Carolina Division of Water Resources.
- (14) "Toxicant" means any specific chemical, compound, or mixture of chemicals or compounds regulated by an NPDES permit or defined as a toxic substance in 15A NCAC 02B .0202.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66;
Eff. October 1, 1988;
Amended Eff. April 1, 1993;
Readopted Eff. July 1, 2019.

15A NCAC 02H .1104 FEES ASSOCIATED WITH CERTIFICATION PROGRAM

(a) Certification Fees:

- (1) The first category, as set forth in Rule .1105 of this Section, shall be certified at a cost of five hundred dollars (\$500.00) per year. Additional categories, shall be certified at a cost of four hundred dollars (\$400.00) per year per category. The addition of parameters not included in the original certification shall be certified at a cost of one hundred dollars (\$100.00) per year per parameter.
- (2) Certification fees are due upon application and no later than 45 days prior to the requested certification date.

(b) Renewal Fees:

- (1) The certified laboratory shall pay the State a four hundred dollar (\$400.00) per year renewal fee for each category of certification or the minimum fee of five hundred dollars (\$500.00) per year if only one category is certified. Renewal certification fees are due by November 1 annually.
- (2) Out-of-state laboratories shall reimburse the State for actual travel and subsistence costs incurred in certification, recertification, and maintenance of certification.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66;
Eff. October 1, 1988;
Readopted Eff. July 1, 2019.

15A NCAC 02H .1105 CERTIFICATION

(a) Commercial, public, and industrial laboratories shall obtain certification from the Division for biological parameters that are required to be reported pursuant to G.S. 143, Article 21, Part 1.

(b) For the purposes of certification and setting fees, parameters shall be grouped in the following categories:

- (1) Acute Toxicity Testing/Invertebrate;
- (2) Acute Toxicity Testing/Vertebrate;
- (3) Chronic Toxicity Testing/Invertebrate;
- (4) Chronic Toxicity Testing/Vertebrate;
- (5) Algal and Aquatic Plant Toxicity Testing; and
- (6) Aquatic Population Survey and Analysis.

(c) All certifications shall be in effect for one year and may be renewed for additional one-year periods as set forth in Rule .1104 of this Section.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(1)(10); 143-215.66;
Eff. October 1, 1988;
Readopted Eff. July 1, 2019.

15A NCAC 02H .1106 DECERTIFICATION

(a) The Director or the Director's designee may revoke the entire laboratory certification for:

- (1) failing to maintain the facilities, records, personnel, equipment, or a quality assurance program as required by these Rules;
- (2) submitting inaccurate or falsified data reports or other information; or
- (3) failing to pay required fees by the date due.

(b) A laboratory certification may be revoked for a category for failure to:

- (1) obtain acceptable results on two consecutive proficiency testing samples. Acceptable results on proficiency testing samples are those that fall within the specified acceptable range as indicated by the State Laboratory or State Laboratory-approved vendor. The State Laboratory may apply specific variance or statistical limits or performance criteria on performance evaluation samples or split samples for a particular testing procedure, including control population effects and taxonomic identification, as published in these Rules;
- (2) obtain acceptable results as set out in Subparagraph (b)(1) of this Paragraph on two consecutive split samples that have also been analyzed by the Division;
- (3) submit a split sample to the Division as requested;
- (4) use approved procedures as defined in Rule .1103 of this Section;

(5) report equipment changes that would affect the laboratory's ability to perform a test category to the State Laboratory within 30 days of the change;

(6) report results of proficiency testing to the State Laboratory within the requirements that are set forth by the proficiency study;

(7) maintain records and perform quality controls as set forth by these Rules;

(8) maintain equipment required for any certified parameter;

(9) implement and maintain quality control programs approved in conjunction with certification; or

(10) maintain a qualified staff, as specified in Rule .1110(f)(1) and (2) of this Section.

(c) Requirements for Laboratories following Decertification:

(1) A laboratory shall not analyze samples for parameters in decertified categories for programs governed by rules of this Section.

(2) A decertified commercial laboratory shall notify any clients affected by the laboratory's decertification and supply the State Laboratory with a list of those clients affected and a written certification that those clients have been notified. If the decertified laboratory arranges for a certified laboratory to perform analyses during the period of decertification, the decertified laboratory shall supply the Division with the name of the replacement laboratory and the clients involved. The name of the certified laboratory that performs analyses shall appear on all data submitted to the Division.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(4); 143-215.3(a)(10); 143-215.66;
Eff. October 1, 1988;
Amended Eff. March 1, 1993;
Readopted Eff. July 1, 2019.

15A NCAC 02H .1107 RECERTIFICATION

(a) A laboratory decertified for any reason other than the submittal of falsified data reports or other information shall be recertified after 30 days upon demonstrating to the State Laboratory that all deficiencies have been corrected.

(b) In the case of a laboratory decertified for submitting falsified data reports or other information, recertification shall not occur prior to 12 months after the decertification and then only at such time as the laboratory has demonstrated to the Director, or their delegate, that the standards for initial certification have been met.

(c) If a laboratory that was decertified due to either failure of proficiency testing samples or split samples seeks recertification, the laboratory shall submit a written request to the State Laboratory requesting evaluations for the category pursuant to Rule .1106(b) of this Section for which the laboratory was decertified. Two consecutive samples shall have acceptable results as set forth in Rule .1106 of this Section to achieve recertification. The first of these samples for recertification shall be submitted or arranged by the Division no later than 30 days

after receipt of the written request. The second shall be submitted or arranged no later than 30 days after the first.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66;
Eff. October 1, 1988;
Amended Eff. March 1, 1993;
Readopted Eff. July 1, 2019.

15A NCAC 02H .1108 RECIPROCITY

(a) Laboratories certified by other states or federal programs shall be given reciprocal certification if the programs meet the requirements of these Rules. In requesting certification through reciprocity, laboratories shall include with the application a copy of their certification and the rules of the original certifying agency.

(b) Laboratories certified pursuant to this Rule shall pay all applicable fees set forth in Rule .1104 of this Section.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66;
Eff. October 1, 1988;
Amended Eff. March 1, 1993;
Readopted Eff. July 1, 2019.

15A NCAC 02H .1109 ADMINISTRATION

(a) Appeals. If the Director or the Director's delegate denies certification, or decertifies a laboratory, the laboratory may appeal pursuant to G.S. 150B, Article 3.

(b) The State Laboratory shall maintain a current list of certified commercial, industrial, or public laboratories.

History Note: Authority G.S. 143-215.3(a)(1); 143-215(a)(4); 143-215.3(a)(10); 143-215.66;
Eff. October 1, 1988;
Amended Eff. March 1, 1993;
Readopted Eff. July 1, 2019.

15A NCAC 02H .1110 IMPLEMENTATION

(a) Each laboratory requesting State certification, certification renewal, or recertification shall apply to the Division. Each application shall be reviewed to determine if personnel, equipment, records, quality control procedures, and methodology meet the requirements pursuant to 40 CFR 136.3 and these Rules. After receiving a completed application and prior to issuing certification, a representative of the Division shall inspect each laboratory to verify the information in the application and if the laboratory meets requirements pursuant to these Rules.

(b) Analytical methods, sample preservation, sample containers, and sample holding times shall conform to the methodologies specified in:

- (1) 40 CFR Part 136, hereby incorporated by reference and including subsequent amendments and editions. Copies of the Code of Federal Regulations, 40 CFR Part 136, may be obtained from the Superintendent of Documents, U.S. Government Printing Office (GPO), Superintendent of Public Documents,

Washington, D.C. 20402 and free of charge on the Internet at <http://www.ecfr.gov>; and Rule .1111 of this Section.

(2)

(c) Pursuant to G.S. 143B-282, the Environmental Management Commission or designated delegate, shall approve the State Laboratory to develop Approved Procedures for Biological Procedures based upon the methods contained in 40 CFR Part 136 and Rule .1111 of this Section. Approved Procedures for Biological Procedures document shall be available for inspection at the State Laboratory, 4401 Reedy Creek Road, Raleigh, North Carolina, 27607 or may be obtained free of charge on the State Laboratory Certification website at <https://deq.nc.gov/about/divisions/water-resources/water-resources-data/water-sciences-home-page/aquatic-toxicology-branch>.

(d) Pursuant to G.S. 143B-282, the Environmental Management Commission or designated delegate, may approve other analytical procedures, parameters, or parameter methods that have been demonstrated to produce verifiable and repeatable results.

(e) In order to maintain certification, each laboratory shall meet the requirements of this Section for proficiency testing samples submitted to the Division. Proficiency testing by certified laboratories shall be required no more than three times annually for each category certified.

(f) In order to receive and maintain certification, the following criteria shall be met:

(1)

The supervisor of an aquatic toxicology or biological survey laboratory shall have a Bachelor's degree from an accredited college as defined in 34 CFR 602 or university in a biological science or related science curriculum and three years of cumulative laboratory experience in aquatic toxicity testing or aquatic population surveying, or a Master's degree in a biological or related science and one year of cumulative laboratory experience in aquatic toxicity testing or aquatic population surveying.

(2)

All laboratory supervisors shall be subject to review by the Division. One person shall not serve as supervisor of more than two laboratories. The supervisor shall provide direct supervision and evaluation of all technical personnel and shall be responsible for the performance and reporting of all analyses. Upon absence, the supervisor shall arrange for a suitable substitute who meets the requirements of Subparagraph (f)(1) of this Rule and is capable of insuring the performance as set forth by these Rules of all laboratory procedures. Existing laboratory supervisors who do not meet the minimum requirements shall be accepted after review by the Division if they meet all other certification requirements and previous performance has met the requirements of these Rules.

(3)

All applications and fees shall be due pursuant to Rule .1104 of this Section. Upon the Division establishing compliance with the requirements of this Section, certification shall be issued by

- the Director or Director's delegate within 45 days of receipt of the fees for certification.
- (4) Each laboratory shall develop and maintain a document outlining quality control procedures for testing of all approved procedures in their certification and dissolved oxygen, temperature, conductivity, and pH. All aquatic toxicology laboratories shall also develop and maintain a document outlining quality control procedures for testing of total hardness and total residual chlorine. These documents shall be included with submittal of the application.
 - (5) Each laboratory certified for the category of Aquatic Population Survey and Analysis shall develop and maintain a document outlining quality control procedures for taxonomic identifications and life-stage determinations.
 - (6) Supporting records shall be maintained for five years as evidence that these practices have met the requirements of these Rules and are being carried out and shall be available to the State Laboratory upon request.
 - (7) The quality control program shall be approved in conjunction with certification by the Director or the Director's delegate.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(4); 143-215.3(a)(10); 143-215.66;

Eff. October 1, 1988;

Amended Eff. October 1, 1993;

Readopted Eff. July 1, 2019.

15A NCAC 02H .1111 BIOLOGICAL LABORATORY CERTIFICATION AND QUALITY ASSURANCE

(a) Aquatic Toxicology Laboratories shall have the following laboratory resources:

- (1) 200 square feet of laboratory space;
- (2) 20 linear feet of laboratory bench space;
- (3) one drained sink with hot and cold running water;
- (4) control of culture environment including lighting, cooling, and heating to maintain organism as set forth in the approved procedures and these Rules;
- (5) one refrigerator that will maintain sample temperatures between 0.0 degrees Celsius and 6.0 degrees Celsius;
- (6) current copies of the approved procedures for which the laboratory is requesting certification;
- (7) glassware, chemicals, supplies, and equipment to perform any procedures included in the requested certification;
- (8) instrumentation capable of measuring dissolved oxygen, pH, temperature, conductivity, and salinity (for saltwater tests) directly from test vessels of any procedure included in certification application. Equivalent surrogate vessels may be utilized for physical

- measurements if injury to test organisms may result;
- (9) instrumentation or analytical capabilities to perform measurements of total residual chlorine to a level at least as low as 0.1 mg/l and total hardness to a level at least as low as 1 mg/l;
- (10) a dissecting microscope and a compound microscope for those laboratories requesting or maintaining either of the categories of Acute Toxicity Testing/Invertebrate or Chronic Toxicity Testing/Invertebrate. The compound microscope shall have a minimum magnification of 400x and a maximum magnification of greater than or equal to 1,000x;
- (11) a balance capable of weighting 0.0001g and Class "S" or equivalent reference weights. A balance capable of weighing fish larvae to 0.00001g for those laboratories requesting or maintaining certification for the category Chronic Toxicity Testing/Vertebrate;
- (12) Cladocerans shall be cultured in-house. All other organisms may be purchased from a supplier;
- (13) dilution water for use in whole effluent toxicity testing with chemical characteristics such that the pH is between 6.5 S.U. and 8.5 S.U. and total hardness as calcium carbonate is between 30 ppm and 50 ppm for surface water and 80 ppm and 100 ppm for synthetic lab water. If receiving waters have characteristics outside of these stated pH and hardness ranges, then alternate pH and hardness ranges shall be accepted upon demonstration to the State Laboratory that the alternate ranges are better suited to testing objectives, and that quality assurance standards have been met; and
- (14) chain-of-custody documentation.

(b) Aquatic Population Survey and Analysis Laboratories shall have the following laboratory resources:

- (1) 150 square feet of laboratory space;
- (2) eight linear feet of laboratory bench space;
- (3) binocular dissecting microscopes and compound microscopes suitable for survey type;
- (4) vials, preservatives, and space to maintain representative sample collections for at least one year after collection;
- (5) current taxonomic guides and reference materials to support identification;
- (6) chain-of-custody documentation forms, laboratory records, and seals;
- (7) sampling equipment to support collection of appropriate biological organisms; and
- (8) settling tubes and one inverted microscope with a minimum magnification of 300x for those laboratories requesting or maintaining certification for algae.

(c) All laboratories shall adhere to the following quality assurance requirements:

- (1) instruments used in or associated with toxicity testing, including automatic sampling equipment, pH meter, dissolved oxygen meter, and conductivity meter, shall be calibrated each day before the instrument is used. Calibrations performed shall be recorded;
- (2) a minimum of five valid reference toxicant tests shall be performed and entered on a control chart for each toxicity test organism and toxicity test type for which a lab is certified. A maximum of 20 data points shall be entered on a control chart;
- (3) a reference toxicant test shall be performed:
 - (A) every two weeks for each organism used in acute whole effluent toxicity testing; or such that North Carolina National Pollutant Discharge Elimination System (NPDES) acute tests are performed within one week of an acute reference toxicant test for the organism in question. To maintain acute certification for an organism, acute reference toxicant tests shall be performed at least quarterly; and
 - (B) once per month for each organism used in chronic whole effluent toxicity testing; or such that North Carolina NPDES chronic tests are performed within two weeks of a chronic reference toxicant test for the organism in question. To maintain chronic certification for an organism, chronic reference toxicant tests shall be performed at least quarterly.
- (4) a reference test shall be performed with each batch of organisms received from an outside supplier;
- (5) the endpoint for chronic reference toxicant tests shall be the IC25 as determined by the linear interpolation method described in EPA-821-R-02-013 and EPA-821-R-02-014, herein incorporated by reference, including any subsequent amendments or editions. These methods are available free of charge at: <https://www.epa.gov/cwa-methods/whole-effluent-toxicity-methods>;
- (6) acceptable alternative culture media utilized to culture the algae *Selenastrum capricornutum* for use as *Ceriodaphnia* food are as follows:
 - (A) the Marine Biology Laboratory (MBL) medium as described in the Handbook of Phycological Methods: Culture Methods and Growth Measurements. 1973. J. Stein, ed. University Press, Cambridge, MA, available at a cost of sixty eight dollars

and eighty five cents (\$68.85), herein incorporated by reference, including subsequent amendments and editions; and

- (B) additional nutrients for the preparation of algae medium described in Section 13.6.15 of EPA-821-R-02-013 and Appendix A1, Section 3.10.3 of EPA-821-R-02-012. These methods are available free of charge at: <https://www.epa.gov/cwa-methods/whole-effluent-toxicity-methods>, herein incorporated by reference, including any subsequent amendments and editions. The volume of nutrient stock solutions found in Table 1 on Page 147 of EPA-821-R-02-013 or Page 133 of EPA-821-R-02-012 may be adjusted so that solutions 1.A, 1.D, and 2 are added at a rate of 2 ml/l, and solutions 1.B and 1.C are added at a rate of 6 ml/l;
- (7) a representative of each test organism cultured, including those obtained from an outside supplier, shall be taxonomically identified to the species level at least annually. Specimens shall be preserved and held for one additional year;
- (8) when closed incubators are used for toxicity testing or test organism culturing purposes, culturing and testing activities shall not be contained within the same incubator;
- (9) effluent samples collected for chronic *Ceriodaphnia dubia* tests shall be used within 36 hours of collection and not more than 72 hours after first use of the sample for test renewal. The beginning of this period is defined as the time of the collection of a grab sample or the time of collection of the last subsample of a composite sample to the time that the organisms are introduced to the test solution; and
- (10) a record shall be maintained for all samples entering the laboratory that documents the sample identity and includes the following information:
 - (A) the sample number;
 - (B) the sample temperature at receipt;
 - (C) the time and date of sample collection and receipt;
 - (D) the name of person from whom the sample was received; and
 - (E) the name of person who received the sample.
- (d) The following procedure modifications have been approved by the EPA and shall be followed by certified laboratories:
 - (1) acute and chronic toxicity tests shall be conducted at 25.0 degrees Celsius plus or minus 1.0 degree Celsius, except that chronic tests for *Mysidopsis bahia* shall be conducted at 26.0

- degrees Celsius plus or minus 1.0 degree Celsius. Certified laboratories may request in writing variances from the State Laboratory for species which require alternate temperatures in accordance with EPA procedures;
- (2) organisms used in acute toxicity tests shall have food made available for a minimum of two hours prior to initiation of testing;
- (3) for cladoceran species, the feeding amount prior to the acute test shall be at least 0.05 ml of YCT and 0.05 ml of a solution of the algae *Selenastrum capricornutum* with a cell concentration of 1.71×10^7 cells/ ml per 15 ml of culture solution;
- (4) for each sample used in a toxicity test, the following parameters shall be measured and recorded from an undiluted aliquot:
 - (A) pH;
 - (B) specific conductance;
 - (C) total residual chlorine;
 - (D) dissolved oxygen; and
 - (E) salinity (for salt water test);
- (5) for each sample used in a toxicity test, the following parameters shall be measured in the control and the highest toxicant concentration tested at the beginning of the test, prior to renewal, following each renewal, and at the termination of the test:
 - (A) temperature;
 - (B) dissolved oxygen;
 - (C) pH; and
 - (D) salinity (for salt water test);
- (6) *Ceriodaphnia dubia* used in toxicity tests shall meet the following requirements:
 - (A) be obtained from individual cultures;
 - (B) be obtained from third or subsequent broods of adults not being more than 14 days in age and containing eight or more neonates with an average adult mortality not exceeding 20 percent per culture board;
 - (C) chronic *Ceriodaphnia dubia* analyses shall have an additional test acceptability criterion of complete third brood neonate production by at least 80 percent of the surviving control organisms;
 - (D) *Ceriodaphnia dubia* neonate reproduction totals from chronic tests shall include only organisms produced in the first through third broods;
 - (E) the percentage of male *Ceriodaphnia dubia* control organisms shall not exceed 20 percent in chronic *Ceriodaphnia dubia* tests; and
 - (F) the *Ceriodaphnia dubia* control organism reproduction coefficient of variation (CV) shall be less than 40 percent for a chronic *Ceriodaphnia dubia* test;
- (7) "Observed-effect" in a chronic *Ceriodaphnia dubia* test shall be defined as:
 - (A) statistical significant decrease in survival of the treatment organism as compared to the control organisms; or
 - (B) 20 percent or greater decrease in treatment organisms as compared to the control organism reproduction that is also determined to be statistically different from the control organism reproduction;
- (8) acute tests shall be terminated within one hour of their stated length;
- (9) the North Carolina Pass/Fail chronic tests and Phase II *Ceriodaphnia dubia* chronic tests shall meet the following requirements:
 - (A) follow a schedule where the test is started on day zero, renewed on day two and five, and terminated no later than seven days and two hours after the initiation of the test;
 - (B) follow a schedule where each daily feeding shall consist of addition of 0.05 ml of yeast-Cerophyll® -trout chow (YCT) food and 0.05 ml of a solution of the algae *Selenastrum capricornutum* with a cell concentration of 1.71×10^7 cells/ml per 15 ml of test solution; and
 - (C) the percent reduction for chronic *Ceriodaphnia dubia* analysis for each treatment shall be calculated by subtracting the mean number of neonates produced by the treatment organisms from the mean number of neonates produced by the control organisms, dividing that number by the mean number of neonates produced by the control organisms, and multiplying by 100 percent;
- (10) the North Carolina Pass/Fail *Ceriodaphnia dubia* chronic test shall be performed as two treatments exposing 12 test organisms to each treatment. The first treatment shall be considered the control population and shall be exposed at 0 percent effluent and 100 percent dilution water;
- (11) the North Carolina Pass/Fail acute test shall be performed as two treatments with the control population specified as Treatment 1, and the effluent treatment specified as Treatment 2. Each treatment shall be tested using four identical test vessels. Each treatment shall contain 10 test organisms, for a total of 80 test organisms; and

- (12) there shall be no removal of chlorine or any other effluent constituent by either chemical or physical methods prior to testing.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66; Eff. October 1, 1988; Readopted Eff. July 1, 2019.

15A NCAC 07H .2701 PURPOSE

A general permit under this Section shall allow for the construction of marsh sills for wetland enhancement and shoreline stabilization in estuarine and public trust waters as set out in 15A NCAC 07J .1100 and according to the rules in this Section. Marsh sills are defined as sills that are shore-parallel structures built in conjunction with existing, created, or restored wetlands. This general permit shall not apply within the Ocean Hazard System AECs or waters adjacent to these AECs with the exception of those portions of shoreline within the Inlet Hazard Area AEC that feature characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area.

History Note: Authority G.S. 113A-107; 113A-118.1; Temporary Adoption Eff. June 15, 2004; Eff. April 1, 2005; Temporary Amendment Eff. April 1, 2019; Amended Eff. July 1, 2019.

15A NCAC 07H .2704 GENERAL CONDITIONS

- (a) Structures authorized by a permit issued pursuant to this Section shall be marsh sills conforming to these Rules.
- (b) Individuals shall allow authorized representatives of the Department of Environmental Quality (DEQ) to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed in these Rules.
- (c) The placement of marsh sills authorized in these Rules shall not interfere with the established or traditional rights of navigation of the waters by the public.
- (d) This permit shall not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality, air quality, coastal wetlands, cultural or historic sites, wildlife, fisheries resources, or public trust rights.
- (e) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.
- (f) Development carried out under this permit shall be consistent with all local requirements, AEC Guidelines as set out in 15A NCAC 07H .0200, and local land use plans current at the time of authorization.

History Note: Authority G.S. 113A-107; 113A-118.1;

Temporary Adoption Eff. June 15, 2004; Eff. April 1, 2005; Temporary Amendment Eff. April 1, 2019; Amended Eff. July 1, 2019.

15A NCAC 07H .2705 SPECIFIC CONDITIONS

- (a) A general permit issued pursuant to this Section shall be applicable only for the construction of marsh sill structures built in conjunction with existing, created, or restored wetlands. Planted wetland vegetation shall consist only of native species.
- (b) The landward edge of the sill shall be positioned no greater than 30 feet waterward of the normal high water or normal water level or five feet waterward of the existing wetlands, whichever distance is greater.
- (c) The permittee shall maintain the authorized sill, including wetlands and tidal inundation, in conformance with the terms and conditions of this permit, or the remaining sill structures shall be removed within 90 days of notification of noncompliance from the Division of Coastal Management.
- (d) The height of sills shall not exceed 12 inches above normal high water, normal water level, or the height of the adjacent wetland substrate, whichever is higher.
- (e) Sill construction authorized by this permit shall be limited to a maximum length of 500 feet.
- (f) The sills shall have at least one five-foot opening every 100 feet and may be staggered, overlapped or left open as long as the five-foot separation between sections is maintained. Overlapping sections shall not overlap more than 10 feet. Deviation from these opening requirements shall be allowable following coordination with the N.C. Division of Coastal Management.
- (g) The sill structure shall not exceed a slope of a one and a half foot horizontal distance over a one foot vertical rise. The width of the structure on the bottom shall not exceed 12 feet.
- (h) For water bodies narrower than 150 feet, no portion of the structures shall be positioned offshore more than one sixth (1/6) the width of the waterbody.
- (i) The sill shall not be within a navigation channel or associated setbacks marked or maintained by a state or federal agency.
- (j) The sill shall not interfere with leases or franchises for shellfish culture.
- (k) All structures shall have a minimum setback distance of 15 feet between any parts of the structure and the adjacent property owner's riparian access corridor, unless either a signed waiver statement is obtained from the adjacent property owner or the portion of the structure within 15 feet of the adjacent riparian access corridor is located no more than 25 feet from the normal high or normal water level. The riparian access corridor line is determined by drawing a line parallel to the channel, then drawing a line perpendicular to the channel line that intersects with the shore at the point where the upland property line meets the water's edge, as defined in 15A NCAC 07H .1205(t). Additionally, the sill shall not interfere with the exercise of riparian rights by adjacent property owners, including access to navigation channels from piers, or other means of access.
- (l) Sills shall be marked at 50-foot intervals with yellow reflectors extending at least three feet above normal high water or normal water level and must be maintained for the life of the structure.
- (m) If the crossing of wetlands with mechanized construction equipment is necessary, temporary construction mats shall be

utilized for the areas to be crossed. The temporary mats shall be removed upon completion of the construction of the sill structure. Material used to construct the sill shall not be stockpiled on existing wetlands or in open water unless contained in a containment structure supported by construction mats.

(n) Sedimentation and erosion control measures shall be implemented to ensure that eroded materials do not enter adjacent wetlands or waters.

(o) No excavation or filling, other than that necessary for the construction and bedding of the sill structure, is authorized by this general permit.

(p) Sills shall not be constructed within any native submerged aquatic vegetation. If submerged aquatic vegetation is present within a project area, a submerged aquatic vegetation survey shall be completed during the growing season of April 1 through September 30. All sills shall have a minimum setback of 10 feet from any native submerged aquatic vegetation.

(q) Sills shall not be constructed within any habitat that includes oyster reefs or shell banks. All sills shall have a minimum setback of 10 feet from any oysters, oyster beds, or shell banks.

(r) No excavation of the shallow water bottom or any wetland is authorized by this general permit.

(s) The sill material shall consist of clean rock, marl, oyster shell, or masonry materials such as granite or broken concrete, or other similar materials that are approved by the N.C. Division of Coastal Management. Sill material shall be free of loose sediment or any pollutant, including exposed rebar. The sill material shall be of sufficient size and slope to prevent its movement from the approved alignment by wave or current action.

*History Note: Authority G.S. 113A-107; 113A-118.1;
Temporary Adoption Eff. June 15, 2004;
Eff. April 1, 2005;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f));
Temporary Amendment Eff. April 1, 2019;
Amended Eff. July 1, 2019.*

15A NCAC 18C .0102 DEFINITIONS

(a) The definitions contained in G.S. 130A-2, G.S. 130A-290, and G.S. 130A-313 shall apply to this Subchapter.

(b) The definitions contained in 40 C.F.R. 141.2 are hereby incorporated by reference including any subsequent amendments and editions except the following definitions are not adopted:

- (1) "Contaminant;"
- (2) "Maximum contaminant level;"
- (3) "Person;"
- (4) "Public Water System;" and
- (5) "Supplier of water."

Copies of governing federal regulations may be obtained at no cost from the United States Environmental Protection Agency's (USEPA) homepage at <http://water.epa.gov/lawsregs/rulesregs/sdwa/index.cfm> or from the USEPA's Drinking Water Hotline at 1-800-426-4791.

(c) In addition to the definitions referred to in Paragraph (a) and (b) of this Rule, the following definitions shall apply to this Subchapter:

- (1) "Act" means the North Carolina Drinking Water Act.
- (2) "Air gap" means the unobstructed vertical distance through free atmosphere between the lowest effective opening from any pipe or faucet conveying a water or waste to a tank, plumbing fixture, receptor, or other assembly and the flood level rim of the receptacle. These vertical, physical separations shall be at least twice the effective opening of the water supply outlet, never less than one inch (25 mm) above the receiving vessel flood rim.
- (3) "Backflow" means the undesirable reversal of flow of a liquid, gas, or other substance in a potable water distribution piping system as a result of a cross-connection.
- (4) "Backflow preventer" means an assembly, device, or method that prohibits the backflow of water into potable water supply systems.
- (5) "Class I reservoir" means a reservoir from which water flows by gravity or is pumped directly to a treatment plant or to a small intervening storage basin and thence to a treatment plant.
- (6) "Class II reservoir" means a reservoir from which the water flows by gravity or is pumped to a Class I reservoir prior to final entrance to a water treatment plant.
- (7) "Class III reservoir" means an impoundment used for electric power generation, flood control and similar purposes, and that serves as a source of raw water for a community water system.
- (8) "Cross-connection" means:
 - (A) any physical connection between a potable water supply system and any other piping system, sewer fixture, container, or device, whereby water or other liquids, mixtures, or substances may flow into or enter the potable water supply system;
 - (B) any potable water supply outlet that is submerged or is designed or intended to be submerged in non-potable water or in any source of contamination; or
 - (C) an air gap, that does not meet the requirements set forth in Subparagraph (2) of this Paragraph.
- (9) "Community Water System intake" means the structure at the head of a conduit into which water is diverted from a stream or reservoir for transmission to a water treatment facility.
- (10) "Division" means the Department of Environmental Quality, Division of Water Resources.
- (11) "Fecal Coliform" means bacteria that serve as indicators of recent fecal contamination. Fecal Coliforms include the Family

- Enterobacteriaceae, Genus Escherichia, Species coli.
- (12) High-Health Hazard: A cross-connection or potential cross-connection involving any substance that could, if introduced into the potable water supply, cause illness or death, spread disease, or have a high probability of causing such effects.
- (13) Low-Health Hazard: A cross-connection or potential cross-connection involving any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the potable water supply.
- (14) "Mobile Home Park" means a site or tract of land where spaces are provided for lease or rental only for the placement of mobile homes.
- (15) "Mobile home subdivision" means a subdivided site or tract of land in which lots are sold for the placement of mobile homes.
- (16) "Non-potable water supply" means waters not approved for drinking or other household uses.
- (17) "Non-regulated public water system" means a public water system that meets the exclusion conditions set forth in G.S. 130A-314.
- (18) "Potable water supply" means water approved for drinking and other household uses.
- (19) "Raw water" means surface water or groundwater that because of bacteriological quality, chemical quality, turbidity, color, or mineral content makes it unsatisfactory as a source for a community water system without treatment.
- (20) "Raw water reservoir" means a natural or artificial impoundment used for the primary purpose of storing raw water to be subsequently treated for use as a source of water for a community water system.
- (21) "Service connection" means a piped connection from a water main for the purpose of conveying water to a building or onto premises for human use. A service connection begins:
- (A) at the point downstream of a service meter; or
- (B) for unmetered service, at the point of connection to the potable water supply system.
- (22) "Water supply product" means any chemical or substance added to a public water system in conjunction with a treatment technique or material used in construction of a public water system. The term includes any material used in the manufacture of public water system components, appurtenances, pipe, storage tank, or valve that comes in contact with water intended for use in a public water system.

Eff. January 1, 1977;
Readopted Eff. December 5, 1977;
Amended Eff. April 1, 2014; July 1, 1994; August 1, 1991;
January 1, 1991; September 1, 1990;
Readopted Eff. July 1, 2019.

15A NCAC 18C .0202 SURFACE SUPPLIES FROM CLASSIFIED WATERSHEDS

Any surface water that is to receive treatment for removal of dissolved matter or suspended matter in order to be used for a public water system shall be obtained from a source that meets the WS-I, WS-II, WS-III, WS-IV or WS-V stream classification standards established by the Environmental Management Commission codified in 15A NCAC 02B. Copies are available for public inspection as set forth in Rule .0102(a) of this Subchapter.

History Note: Authority G.S. 130A-315; 130A-318; P.L. 93-523;
Eff. January 1, 1977;
Readopted Eff. December 5, 1977;
Amended Eff. April 1, 2014; July 1, 1994; September 1, 1990;
February 1, 1987; September 1, 1979;
Readopted Eff. July 1, 2019.

15A NCAC 18C .0203 PUBLIC WELL WATER SUPPLIES

(a) A site or sites for a water supply well to be used as a community or non-transient, non-community water system shall be investigated by an authorized representative of the Department prior to approval. Approval by the Department is required in addition to any approval or permit issued by any other state agency. The site shall meet the following requirements at the time of approval:

- (1) The well shall be located on a lot so that the area within 100 feet of the well is owned or controlled by the person supplying the water. The supplier of water shall be able to protect the well lot from potential sources of pollution and to construct landscape features for drainage and diversion of pollution.
- (2) The minimum horizontal separation between the well and known potential sources of pollution shall be as follows:
 - (A) 100 feet from any sanitary sewage disposal system, sewer, or a sewer pipe unless the sewer is constructed of water main materials and joints, in which case the sewer pipe shall be at least 50 feet from the well;
 - (B) 200 feet from a subsurface sanitary sewage treatment and disposal system designed for 3000 or more gallons of wastewater a day flows, unless the well water source is from a confined aquifer;
 - (C) 500 feet from a septage disposal site;
 - (D) 100 feet from buildings, mobile homes, permanent structures, animal

History Note: Authority G.S. 130A-311 through 130A-327;
P.L. 93-523; 40 C.F.R. 141.2;

- houses or lots, or cultivated areas to which chemicals are applied;
 - (E) 100 feet from surface water;
 - (F) 100 feet from a chemical or petroleum fuel underground storage tank with secondary containment;
 - (G) 500 feet from a chemical or petroleum fuel underground storage tank without secondary containment;
 - (H) 500 feet from the boundary of a ground water contamination area;
 - (I) 500 feet from a sanitary landfill or non-permitted non-hazardous solid waste disposal site;
 - (J) 1000 feet from a hazardous waste disposal site or in any location that conflicts with the North Carolina Hazardous Waste Management Rules cited as 15A NCAC 13A;
 - (K) 300 feet from a cemetery or burial ground; and
 - (L) 100 feet from any other potential source of pollution.
- (3) The Department may require greater separation distances or impose other protective measures if necessary to protect the well from pollution, taking into consideration factors such as:
- (A) the hazard or health risk associated with the source of pollution;
 - (B) the proximity of the potential source to the well;
 - (C) the type of material, facility, or circumstance that poses the source or potential source of pollution;
 - (D) the volume or size of the source or potential source of pollution;
 - (E) hydrogeological features of the site that could affect the movement of contaminants to the source water;
 - (F) the effect that well operation might have on the movement of contamination; and
 - (G) the feasibility of providing additional separation distances or protective measures.
- (4) The lot shall be graded or sloped so that surface water is diverted away from the wellhead. The well shall not have greater than a one percent annual chance of flooding.
- (5) If a supplier of water demonstrates that it is impracticable, taking into consideration feasibility and cost, to locate water from any other approved source and an existing well can no longer provide water that meets the requirements of this Subchapter, a representative of the Division may approve a variance for a smaller well lot and reduced separation distances to meet existing demands. Additional monitoring under this Part or other conditions shall be imposed if necessary to mitigate the increased risk from the variance.
- (b) The Division of Water Resources may grant a variance from the minimum horizontal separation distances for public water supply wells set out in Parts (a)(2)(D) and (E) of this Rule.
- (1) Such variance shall require the following findings:
 - (A) the well supplies water to a non-community water system as defined in G.S. 130A-313(10)(b) or supplies water to a business or institution, such as a school, that has become a non-community water system through an increase in the number of people served by the well;
 - (B) it is impracticable, taking into consideration feasibility and cost, for the public water system to comply with the minimum horizontal separation distance set out in Parts (a)(2)(D) and (E) of this Rule;
 - (C) there is no reasonable alternative source of drinking water available to the public water supply system and;
 - (D) the granting of the variance will not result in an unreasonable risk to public health.
 - (2) Such variance shall require that the non-community public water supply well meet the following requirements:
 - (A) the well shall comply with the minimum horizontal separation distances set out in Parts (a)(2)(D) and (E) of this Rule to the maximum extent practicable;
 - (B) the well shall meet a minimum horizontal separation distance of 25 feet from a building, mobile home, or other permanent structure that is not used primarily to house animals;
 - (C) the well shall meet a minimum horizontal separation distance of 100 feet from any animal house or feedlot and from cultivated areas to which chemicals are applied;
 - (D) the well shall meet a minimum horizontal separation distance of 50 feet from surface water; and
 - (E) the well shall comply with all other requirements for public well water supplies set out in Paragraph (a) of this Rule.

History Note: Authority G.S. 130A-315; 130A-318; P.L. 93-523; S.L. 2011-394; Eff. January 1, 1977; Readopted Eff. December 5, 1977; Amended Eff. July 7, 2014; July 1, 1994; September 1, 1990; September 1, 1979;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0305 APPROVALS NECESSARY BEFORE CONTRACTING OR CONSTRUCTING

(a) No construction shall be undertaken, and no contract for construction, alteration, or installation shall be entered into, unless the Department determines the system complies with G.S. 130A-317(c) and the Department issues the authorization to construct letter. This authorization shall be issued following completion and submittal of the Engineer's Report and Water System Management Plan, as specified in Rule .0307(b) and (c) of this Section, and approval of the engineering plans and specifications by the Department. Authorization to construct from the Department shall be valid for 36 months from the date of the letter. Authorization to construct may only be extended if the rules governing a public water supply and site conditions have not changed since the letter was issued. The authorization to construct and the approval for engineering plans and specifications letters from the Department shall be posted at the primary entrance of the job site during construction.

(b) Upon request, permission to drill test wells at approved sites in order to establish the quality and quantity of the ground water shall be granted by the Department prior to completion and submittal of the Engineer's Report and Water System Management Plan and approval of engineering plans and specifications. All wells abandoned, either temporarily or permanently, shall be abandoned in accordance with 15A NCAC 02C .0113 (Well Construction Standards) and all local ordinances.

(c) Units of local government that have an adopted water system extension program pursuant to Section .1800 of this Subchapter, upon submission to and approval of their program by the Department, shall be excluded from the requirements of submitting engineering plans and specifications for water main extensions that would not have adverse effect upon the existing system supply or pressure, provided the following requirements are met:

- (1) Engineering plans and specifications for all such extensions shall be prepared by or under the direct supervision of an engineer licensed to practice in the State of North Carolina.
- (2) All engineering plans shall be approved by the unit of local government's engineering department or its consulting engineers prior to the commencement of construction.
- (3) The Department shall have approved the extension program submitted by the unit of local government prior to construction commencing.
- (4) The extension program submitted for review and approval by the Department shall provide for establishing ownership, operation, and maintenance of water system extensions and shall constitute prior notice of proposed construction.
- (5) Where design is to be based on a local government's standard specifications in lieu of written separate specifications for each extension project, the standard specifications

shall have been previously approved by the Department.

- (6) The local government shall have obtained from the Department a letter stating they have met the requirements set forth in Section .1800 of this Subchapter.
- (7) An annual up-to-date plan of the entire public water system shall be maintained by the supplier of water and made available on request by the Department.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Amended Eff. July 1, 1994; September 1, 1990; September 1, 1979;

Temporary Amendment Eff. October 1, 1999;

Amended Eff. August 1, 2000;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0307 ENGINEER'S REPORT, WATER SYSTEM MANAGEMENT PLAN AND OTHER PLANS

(a) The applicant shall submit to the Department an Engineer's Report and Water System Management Plan.

(b) Engineer's Report. The Engineer's Report shall contain a system description for the entire project, including scheduled phase development and the following information, where applicable:

- (1) description of all existing water systems related to this project;
- (2) identification of the municipality, community, area, or facility to be served by the proposed water system;
- (3) the name and address of the applicant;
- (4) a description of the nature of the establishments and of the area to be served by the proposed water system;
- (5) a description of the future service areas of the public water system for 5, 10, 15 and 20 years;
- (6) consideration of alternative plans for meeting the water supply requirements of the area, including, for new systems, obtaining water service from an existing system;
- (7) for applicants seeking State loan or grant support for the project, financial considerations, including:
 - (A) technical alternatives;
 - (B) the costs of integral units; and
 - (C) the total costs.
- (8) population records and trends, present and anticipated future water demands, and present and future yield of source or sources of water supply, including provisions to supply water to other systems;
- (9) character of source or sources of water supply, including:
 - (A) hydrological or hydrogeological data;
 - (B) stream flow rates or well yields;

- (C) for surface sources, analytical results for chemical, mineral, bacteriological, and physical qualities; and
 - (D) the location and nature of sources of pollution.
 - (10) proposed water treatment processes, including:
 - (A) the criteria and basis of design of units;
 - (B) the methods or procedures used in arriving at recommendations; and
 - (C) the reasons or justifications for any deviations from conventional or indicated process or method.
 - (11) for purchased water, a copy of the agreement with the supplier and the hydraulic analysis showing the supplier's capabilities for supplying the purchased water;
 - (12) a description of the design basis of the source, treatment, and distribution system, and the useful life of all sources, treatment, and transmission facilities including pipes, pumping stations, and storage facilities;
 - (13) for existing system projects intending to alter or expand a distribution system, a statement of maximum daily treated water supply and maximum daily demand, including supporting documentation and calculations; and
 - (14) for existing systems, a prioritized list of infrastructure improvements.
- (c) Water System Management Plan. The Water System Management Plan shall document the ability to finance, operate, and manage the system in accordance with this Subchapter for the current owner and for any entity that assumes ownership of the water system within the first 24 months of operation. The Water System Management Plan shall include the following information, where applicable:
- (1) Organization:
 - (A) a description of organizational structure or a chart showing all aspects of water system management and operation;
 - (B) an identification of positions responsible for policy decisions ensuring compliance with State rules and the day-to-day operation of the system; and
 - (C) a copy of all contracts for management or operation of the water system by persons or agencies other than the system's owner.
 - (2) Ownership:
 - (A) identify the ownership structure, such as sole proprietor, partnership, corporation, limited liability company, homeowner association, nonprofit organization, local government unit, state or federal agency, or other legal entity, and disclose if the ownership of the system is expected to change once the system is constructed and, if known, identify the future owners;
 - (B) provide the mailing address and street address of the owner and the physical location of the water system;
 - (C) disclose any encumbrances, trust indentures, bankruptcy decrees, legal orders or proceedings, or other items that may affect or limit the owner's control over the system and describe how compliance with the requirements of this Subchapter will be maintained; and
 - (D) describe the legal authority, such as ownership, leases or recorded easements, allowing inspection, repair, and maintenance of system components.
- (3) Management qualifications:
- (A) describe the qualifications of the owners and managers of the water system, including training and experience in owning or managing a water system; and
 - (B) provide the name and Public Water Supply Identification Number of all public water systems owned within the last five years as well as all systems operated under contract for another owner within the last five years. If any system has been assessed a penalty for violating a requirement set forth in this Subchapter, describe how the owner will prevent similar violations at this system.
- (4) Management training. Describe plans to keep management current with regulatory requirements for managing and operating a public water system.
- (5) Policies. The system shall have policies regarding the following procedures:
- (A) cross-connection control;
 - (B) customer information, complaints, and public education;
 - (C) budget development and rate structure;
 - (D) response and notification if water quality violations occur;
 - (E) customer connection, disconnection, billing, and collection; and
 - (F) safety procedures.
- (6) System monitoring, reporting and record keeping. The applicant shall provide:
- (A) a summary of the applicable system monitoring and reporting requirements; and
 - (B) a description of procedures for keeping and compiling records and

- reports in accordance with this Subchapter.
- (7) Financial Plans. The plan shall contain the following financial information, where applicable:
- (A) Units of Local Government:
- (i) For projects that require the unit of local government to incur debt, the unit of local government shall submit a statement from the Local Government Commission stating that debt issue has been approved.
- (ii) For projects that do not require the unit of local government to incur debt, the unit of local government shall submit the following:
- (I) a statement from the unit of local government documenting that they are in compliance with G. S. 159, Article 3, The Local Government Budget and Fiscal Control Act; and
- (II) estimated revenues, expenditures, and rate structure for the construction, operation and maintenance, administration, and reasonable expansion of the project. This information shall be provided on a form designated by the Department and shall demonstrate that revenues are greater than expenses.
- (B) The North Carolina Utilities Commission's financial determination may be used as the financial plan for systems subject to its regulations:
- (i) submit a copy of the Order Granting Franchise and Approving Rates from the North Carolina Utility Commission; or
- (ii) submit a copy of the Order Recognizing Continuous Extension and Approving Rates from the North Carolina Utilities Commission.
- (C) Non-transient non-community water systems. Owners of existing non-transient non-community water system(s) which receive no violation of this Subchapter during the preceding three years shall provide a description of negative impacts the project would have on the financial ability to comply with this Subchapter. The owner of either a proposed new or existing non-transient non-community water system that was in violation of this Subchapter within the prior three years shall follow the requirements in Part (D) of this Subparagraph.
- (D) All other community and non-transient non-community water systems shall document the following:
- (i) analysis that compares anticipated revenues with planned expenditures for a five-year period that demonstrates a positive cash flow in each year, and a 20-year equipment replacement cost plan documenting the methods to finance equipment replacement;
- (ii) the creation and funding of a continuous operating cash reserve greater than or equal to one-eighth of the annual operating, maintenance, and administrative expenses for the water system. The operating cash reserve shall be fully funded by the end of the first year of operation;
- (iii) the creation and funding of an emergency cash reserve greater than or equal the cost of replacing the largest capacity pump. The emergency cash reserve shall be fully funded by the end of the fifth year of operation; and
- (iv) a description of the budget and expenditure control procedures that assure budget control for the applicant, including procedures or policies to prevent misuse of funds and a demonstration that the system has adopted

- generally accepted accounting procedures.
- (v) In lieu of Sub-Items (ii) and (iii) of this Paragraph, substitute documentation shall be accepted in the following instances:
- (I) an applicant with multiple water systems showing reserves affording greater or equal capabilities; or
- (II) an applicant showing equivalent financial capacity to comply with requirements of this Section.

- (8) One Water System Management Plan may be submitted on behalf of an applicant owning and operating multiple water systems or an applicant pursuing multiple alterations or expansions and may include future projected construction or system acquisitions. The applicant shall submit a new Water System Management Plan for a project not covered under the existing Water System Management Plan or if violations of this Subchapter occur or continue at a system under an applicant's ownership or control.

(d) Operation and Maintenance Plan. The plan shall be completed prior to submitting the applicant's certification in accordance with Rule .0303(c) of this Section. This plan shall be accessible to the operator on duty at all times and available to the Department upon request. The Operation and Maintenance Plan shall include, at a minimum, a description of the location and routine operation and maintenance procedures for:

- (1) components of the treatment facility;
- (2) pumps, meters, valves, blowoffs, and hydrants;
- (3) backflow devices;
- (4) storage tanks; and
- (5) all other appurtenances requiring routine operation and maintenance.

(e) Emergency Management Plan. The Emergency Management Plan shall be completed prior to submitting the applicant certification required in Rule .0303(c) of this Section. The Emergency Management Plan shall be available to personnel responsible for emergency management and operator on duty at all times and available to the Department upon request. The supplier of water shall consider using the principles, practices, forms, nomenclature, structure, and definitions found in the National Incident Management System and shall contain the following information where applicable:

- (1) For community water systems, a plan with the following elements shall be required:
 - (A) an identification and phone numbers of personnel responsible for emergency management, including

- (B) public water system, local, State, and federal emergency contacts;
 - (B) an identification of foreseeable natural and human-caused emergency events, including water shortages and outages;
 - (C) a description of the emergency response plan for each identified event;
 - (D) a description of the notification procedures; and
 - (E) an identification and evaluation of all facilities and equipment whose failure would result in a water outage or water quality violations.
- (2) For a supplier of water that treats and furnishes water from a surface water source, completion of the Source Water Protection Plan in accordance with Rule .1305 of this Subchapter shall fulfill the Emergency Management Plan requirement.
- (3) For non-transient, non-community water systems, the plan shall contain the positions and phone numbers of responsible persons to contact in the event of an emergency, including public water system, local, State and federal emergency contacts.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;
Eff. January 1, 1977;
Readopted Eff. December 5, 1977;
Amended Eff. July 1, 1994; September 1, 1990; June 30, 1980; September 1, 1979;
Temporary Amendment Eff. October 1, 1999;
Amended Eff. August 1, 2000;
Readopted Eff. July 1, 2019.

15A NCAC 18C .0402 WATER SUPPLY WELLS

- (a) Well Construction. The construction of water supply wells shall conform to well construction regulations and standards of the Department, codified in 15A NCAC 02C.
- (b) Upper Terminal of Well. A well casing shall terminate neither below ground nor in a pit. The pump pedestal for above ground pumps of every water supply well shall project not less than six inches above the concrete floor of the well house or the concrete slab surrounding the well. A well casing shall project at least one inch above the pump pedestal. For submersible pumps, the casing shall project at least six inches above the concrete floor or slab surrounding the well head.
- (c) Sanitary Seal. The upper terminal of a well casing shall be sealed watertight, with the exception of a vent pipe or vent tube having a downward-directed, screened opening.
- (d) Concrete Slab or Well House Floor. A water supply well shall have a continuous bond concrete slab or well house concrete floor extending at least three feet horizontally around the outside of the well casing. Minimum thickness for the concrete slab or floor shall be four inches.

(e) Sample Tap and Waste Discharge Pipe. Faucets or spigots shall be provided for sampling both raw water prior to treatment and treated water prior to delivery to the first customer. Sample spigots shall not be threaded for hose connection. Threaded hose bibs shall be equipped with anti-siphon devices. A water sample tap and piping arrangement for discharge of water to waste shall be provided.

(f) Physical Security and Well Protection. A water supply well shall be secured against unauthorized access and protected from the weather. One of the following structures shall be provided:

- (1) Well house. A well house shall be constructed as follows:
 - (A) Structures shall comply with applicable provisions of state and local building codes.
 - (B) Drainage shall be provided by floor drain, wall drain, or slope to door.
 - (C) Access into the structure shall be a doorway with minimum dimensions of 36 inches wide and 80 inches high.
 - (D) The structure shall have adequate space for the use and maintenance of the piping and appurtenances. If treatment is provided at the well, the provisions of Rule .0404(a) of this Section shall apply.
 - (E) The structure shall be secured with lock and key.
- (2) Prefabricated structures. A prefabricated structure shall be constructed as follows:
 - (A) A well-head cover shall be hinged and constructed so that it can be lifted by one person.
 - (B) A locking mechanism shall be provided.
 - (C) The structure shall not be permanently fastened to the slab.
- (3) Fencing and temperature protection. Fencing and temperature protection shall be constructed as follows:
 - (A) The fence height shall be a minimum of six feet.
 - (B) The fence shall be constructed of chain link with locked access.
 - (C) The fence shall enclose the well, hydropneumatic tank, and associated equipment.
 - (D) Access shall be provided for maintenance and operation.
 - (E) The well, piping, treatment equipment, and electrical controls shall be protected against freezing. Wrapping with insulation shall be acceptable for appurtenances such as the air vent, meter, valves, and sample taps, provided they are visible and accessible. Insulation shall be jacketed.

(g) Yield:

- (1) Wells shall be tested for yield and drawdown. A report or log of at least a 24-hour drawdown test to determine yield shall be submitted to the Department for each well.
- (2) Wells shall be located so that the drawdown of any well shall not interfere with the required yield of another well.
- (3) The combined yield of all wells of a public water system shall provide in 12-hours pumping time the daily flow requirements as determined in Rule .0409 of this Section.
- (4) The capacity of the permanent pump to be installed in each well shall not exceed the yield of the well as determined by the drawdown test.
- (5) A residential community water system using well water as its source of supply and designed to serve 50 or more connections shall provide at least two wells. A travel trailer park or campground designed to serve 100 or more connections shall provide at least two wells. In lieu of a second well, another approved water supply source may be accepted.
- (6) A totalizing meter shall be installed in the piping system from each well.

(h) Initial Chemical Analyses. A representative sample of water from every new water supply well shall be collected and submitted for chemical analyses to the State Laboratory of Public Health or to a certified laboratory. The results of the analysis shall demonstrate that the water is treatable to meet the water quality standards in Section .1500 of this Subchapter, and this treatment shall be provided before the well is placed into service.

(i) Continuous Disinfection. Continuous application of chlorine, hypochlorite solution, or another approved and equally efficient disinfectant shall be provided for all well water supplies introduced on or after January 1, 1972. Equipment for determining residual chlorine concentration in the water shall be included in the plans and specifications.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Amended Eff. April 1, 2014; July 1, 1994; September 1, 1990; January 1, 1986; March 31, 1980;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0403 SURFACE WATER FACILITIES

(a) Unimpounded Stream. Both the minimum daily flow of record of the stream and the estimated minimum flow calculated from rainfall and run-off shall exceed the maximum daily draft for which the water treatment plant is designed, with due consideration given to requirements for future expansion of the treatment plant. The Department shall approve a water plant capacity greater than the minimum daily flow of record of the stream if rules or regulations of other government agencies will not be violated.

(b) Impoundments. Raw water storage capacity shall be sufficient to reasonably satisfy the designed water supply demand during periods of drought.

(c) Clearing of Land for Impoundment. The area in and around the proposed impoundment of class I and class II reservoirs shall be cleared as follows:

- (1) The area from normal full level to five feet below the normal pool elevation of the impoundment shall be cleared and grubbed of all vegetation and shall be kept cleared until the reservoir is filled. Secondary growth shall be removed prior to flooding.
- (2) The entire area below the five-foot water depth shall be cleared and shall be kept cleared of all growth of less than six inches in diameter until the reservoir is filled. Stumps greater than six inches in diameter shall be cut off at ground level.
- (3) All brush, trees, and stumps shall be burned or removed from the proposed reservoir.

(d) Existing Impoundments. Existing impoundments shall be approved as raw water sources if the following conditions are met.

- (1) The requirements of Paragraph (c) of this Rule and Section .0200 of this Subchapter shall be met.
- (2) A class I or class II reservoir shall meet the requirements of Section .1200 of this Subchapter.
- (3) The supplier of water shall have an engineer, along with other consultants as needed, conduct a study of the impoundment and provide the Department with information to determine whether the requirements of this Subchapter are met. The study shall include:
 - (A) plans and specifications of the impounding structure;
 - (B) information concerning clearing of the land for the impoundment, as provided in Paragraph (d) of this Rule;
 - (C) information concerning sources of pollution on the watershed;
 - (D) documentation of control by the supplier of water of the impoundment and 50-foot margin around the impoundment measured from the normal pool elevation;
 - (E) information concerning the quality of the water and sediments which could cause water quality fluctuations, such as lake stratification, turnover, and algae bloom; and
 - (F) other information necessary to show that the proposed source will meet the requirements of this Subchapter.

(e) A margin of at least 50 feet around a class I and class II reservoir, measured from the normal pool elevation, shall be owned or controlled by the supplier of water.

(f) Intakes, Pumps, Treatment Units, and Equipment. Raw water intakes, pumps, treatment units, and equipment shall be designed to provide water of potable quality that meets the water quality requirements stated in Section .1500 of this Subchapter.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Amended Eff. July 1, 1994; July 1, 1992; September 1, 1990;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0404 WATER TREATMENT FACILITIES

(a) Physical Security and Facility Protection. Treatment equipment and chemicals shall be secured against unauthorized access and shall be protected against the weather as follows:

- (1) Structures shall comply with provisions of state and local building codes.
- (2) Drainage shall be provided by floor drain, wall drain, or slope to door.
- (3) Access to the structure shall be a doorway with minimum dimensions of 36 inches wide and 80 inches high. The doorway shall be large enough to accommodate installation or removal of equipment.
- (4) The structure shall have space to facilitate operation and maintenance of treatment equipment, storage of chemicals, required piping and appurtenances, electrical controls, and laboratory testing.

(b) Mixing and Dispersion of Chemicals. Provisions shall be made for mixing and dispersion of chlorine and other chemicals applied to the water. Facilities treating surface water or ground water influenced by surface water shall comply with the disinfection requirements in Rule .2002 of this Subchapter.

(c) Chemical Feed Machines:

- (1) Durable chemical feed machines designed for adjustable accurate control of feed rates shall be installed for application of all chemicals necessary for treatment of the water. Sufficient stand-by units to assure uninterrupted operation of the treatment processes shall be provided. Continuous chemical application shall be protected from electrical circuit interruption that could result in overfeed or underfeed or otherwise interrupt the feed of chemicals.
- (2) Chemical feed lines from the feeders to the points of application shall be of material sized for the design flow rate and corrosion resistant and shall be accessible for cleaning and protected against freezing. The length and the number of bends shall be reduced to a minimum.
- (3) Piping and appurtenances shall be constructed of suitable material for the chemical being added and the specific application.
- (4) A separate feeder shall be used for each chemical applied.

(d) Disinfection Equipment:

- (1) Equipment designed for application of chlorine or some other approved, equally efficient disinfectant shall be provided. Spare units shall

be available. The plans and specifications shall describe the equipment.

- (2) Chlorinators shall be installed in tightly constructed, above ground rooms with mechanical ventilation to the outside air. The capacity of exhaust fans shall be sufficient to discharge all air in the rooms every 60 seconds. The fans or their suction ducts shall be located not more than eight inches above floor level. Provisions for entrance of fresh air shall be made. The point of discharge shall be so located as not to contaminate the air in any building or inhabited areas. Electrical switches for operation of fans shall be located outside the chlorinator rooms. Rooms used for storage of chlorine cylinders shall be designed as described in this Subparagraph.

(e) Meters and Gauges. Meters and gauges, including raw and finished water meters, shall be installed to indicate and record water flow entering the treatment facility and water pumped or conducted to the distribution system.

(f) Prevention of Backflow and Backsiphonage. Water treatment facilities shall not have submerged inlets and interconnections whereby non-potable water, water of questionable quality, or other liquids may be siphoned or forced into or otherwise allowed to enter the finished water supply.

(g) Chemical Storage. Separate space for storing at least a 30-day supply of chemicals shall be provided. A separate room or partitioned space shall be provided for storage of dry fluoride chemicals or liquid fluoride chemicals in portable containers.

(h) Laboratory. Space, equipment, and supplies shall be provided for daily chemical and bacteriological tests. A layout of laboratory furniture and equipment shall be included in the plans.

(i) Waste Handling and Disposal:

- (1) Provisions shall be made for disposal of water treatment plant wastes, such as clarification sludge, softening sludge, iron-manganese sludge, filter backwash water, and brines. Untreated waste shall not be returned to the head of the water treatment plant.
- (2) Recycling of supernatant or filtrate from waste treatment facilities treating filter wash water, sedimentation basin sludge, or clarifier basin sludge to the head of the water treatment plant may be allowed if the following conditions are met:
 - (A) The water recycled shall be less than 10 percent by volume of the raw water entering the water treatment plant.
 - (B) A permit has been issued by the appropriate regulatory authority for discharge of wastes to sanitary sewer, stream, lagoon or spray irrigation.
 - (C) The raw water does not contain excessive algae, finished water taste and odor problems are not encountered, and contaminant levels do not exceed allowable levels as set forth in this Subchapter.

*History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;
Eff. January 1, 1977;
Readopted Eff. December 5, 1977;
Amended Eff. July 1, 1994;
Readopted Eff. July 1, 2019.*

15A NCAC 18C .0405 STORAGE OF FINISHED WATER

(a) Ground Level Storage:

- (1) Finished Water Ground Storage Tank. Finished water ground storage tanks shall be provided with a light-proof and insect-proof cover of concrete, steel, or equivalent material approved by the Department. The construction joints between side walls and the covers of concrete tanks or reservoirs shall be above ground level and above flood level, except that clearwells constructed below filters may be excepted from this requirement if total design, including waterproof joints, gives equal protection from flooding.
- (2) Access Manholes. The access manholes for finished water ground storage tanks or reservoirs shall be framed at least four inches above the tank or reservoir covers at the opening and shall be fitted with solid covers of materials that overlap the framed openings and extend down around the frames at least two inches. The covers for the openings shall be hinged at one side and fitted with a locking device.
- (3) Venting. Finished water ground storage tanks or reservoirs shall have vents with screened, downward directed openings. The vent and screen shall be of corrosion resistant material.
- (4) Overflow. The overflow pipes for finished water ground storage tanks or reservoirs shall not be connected directly to sewers or storm drains. Screens or other devices to prevent access by vermin, such as rodents and insects, shall be provided in the overflow pipe.
- (5) Inlets and Outlets. Water supply inlets and outlets of finished water ground storage tanks and reservoirs shall be located and designed to provide circulation of the water and to meet the CT requirements in Section .2000 of this Subchapter. Baffles shall be constructed where necessary to provide thorough circulation of the water.
- (6) Drain Valves. All finished water ground storage tanks and reservoirs shall be equipped with drain valves that allow for unobstructed emptying of the tank.

(b) Elevated Storage Tanks:

- (1) Standards. The specifications for elevated tanks, stand-pipes, towers, paints, coatings, and other appurtenances shall meet the appropriate ANSI/AWWA Standards D100 11, D102 17,

and D103 09 of the American Water Works Association, Inc., incorporated by reference including any subsequent amendments and editions. Copies may be obtained for public inspection as set forth in Rule .0503 of this Subchapter.

- (2) Elevation of Storage Tanks. The elevation of storage tanks shall be sufficient to produce a designed minimum distribution system pressure of 20 pounds per square inch at peak demand (fire flow) and 30 pounds per square inch during peak flow.
- (3) Elevated storage tanks shall be designed to minimize water age by avoiding short-circuiting of flows and dead-zones.
- (4) Drain. Elevated storage tanks shall be equipped with drain valves that allow for unobstructed emptying of the tank.

(c) Hydropneumatic Storage Tanks, referred to in this Rule as Pressure Tanks:

- (1) Use of Pressure Tanks. Where well yields and pumping capacities are sufficient, pressure tanks may be used to control pumps, stabilize pressures, and provide a minimum of storage. Pressure tanks shall have the capacity to maintain a minimum pressure of 30 pounds per square inch throughout periods of peak flow. Pressure tanks shall not be considered acceptable for meeting total storage requirements for public water systems of over 300 connections, except as provided in Paragraph (d) of this Rule.
- (2) Corrosion Control. Pressure tanks shall be galvanized after fabrication and provided with an ANSI/NSF approved liner or coating in accordance with Rule .1537 of this Subchapter.
- (3) Required Parts. Pressure tanks shall have access manholes, bottom drains, pressure gauges, and properly sized safety and vacuum relief valves.
- (4) Controls. Automatic pressure and start-stop controls for the operation of pumps shall be provided.
- (5) Hydropneumatic Storage Tanks. Hydropneumatic storage tanks shall conform to the construction and inspection requirements for pressure vessels adopted by the North Carolina Department of Labor and codified in 13 NCAC 13, incorporated by reference including any subsequent amendments and editions.
- (6) Appurtenances to pressure tanks, such as valves, drains, gauges, sight tubes, safety devices, air-water volume controls, and chemical feed lines, shall be protected against freezing.

(d) High Yield Aquifers:

- (1) Equipment. In lieu of providing elevated storage for public water systems over 300 connections in areas where aquifers are known

to produce high yields, such as 400-500 gpm from an eight-inch well, a system of extra well pumping capacity, auxiliary power generating equipment, pressure tanks, controls, alarms, and monitoring systems may be provided. The design and installation of such system shall assure that reliable, continuous service is provided.

- (2) Auxiliary Power. A system relying on high-yield aquifers under Paragraph (d) of this Rule shall have an adequate number of wells equipped with sufficient pumping capacity so that the required flow rate will be maintained if the single largest capacity well and pump are out of operation. Auxiliary power generating equipment shall be provided for each well sufficient to operate the pump, lights, controls, chemical feeders, alarms, and other electrical equipment.
- (3) Pump Control. Pressure tanks designed in accordance with Paragraph (c) of this Rule and Section .0800 of this Subchapter shall be provided to maintain pressure and control the pump operation.
- (4) Alarm System. An alarm system shall be provided that will send a visual or audible signal to a constantly monitored location so that the water system operator will be advised of a primary power failure.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Amended Eff. April 1, 2014; July 1, 1994; September 1, 1990; October 1, 1986; June 30, 1980;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0406 DISTRIBUTION SYSTEMS

(a) Water Pipe Materials. Water pipes shall be cast iron, ductile iron, reinforced concrete, plastic, or other material designed for potable water system service and shall meet AWWA standards, section C, or be certified as meeting the specifications of ANSI/NSF Standard 61 Drinking Water System Components – Health Effects, which is incorporated by reference including any subsequent amendments and editions. Copies of AWWA standards may be obtained for public inspection as set forth in Rule .0503 of this Subchapter. Copies of ANSI/NSF Standard 61 may be obtained for public inspection as set forth in Rule .1537 of this Subchapter. The pressure rating class of the pipe shall be in excess of the maximum design pressure within that section of the water distribution system. The quality of pipe to be used shall be stated in the project specifications.

(b) Cross-Connections. No person shall construct, maintain, or operate a physical arrangement whereby a public water system has a cross-connection without the use of proper backflow protection.

- (1) No person shall introduce any water into the distribution system of a public water supply

- through any means other than from a source of supply duly approved by the Department or its representatives or make any physical connection between an approved supply and unapproved supply unless authorized in an emergency by the Department or its representative.
- (2) Service Connection Relation to Plumbing Code. No supplier of water shall provide a service connection to any plumbing system that does not comply with the North Carolina State Building Code, Volume II, and all applicable local plumbing codes. Where required, the supplier of water shall install or require to be installed an appropriate testable backflow prevention assembly prior to making the service connection. Design of backflow prevention assemblies for service connections shall not require Department review.
- (3) Connections Requiring Departmental Review. Connections between a public water system and the connection types in Parts (A) through (D) of this Subparagraph shall require review and approval by the Department prior to making the connection. Installation of a testable backflow prevention assembly or air gap shall be required if the connection is non-potable or unapproved. Engineering plans and specifications shall be submitted in accordance with Section .0300 of this Subchapter.
- (A) Any regulated public water system;
- (B) any community non-regulated public water system. Before providing a connection, a supplier of water shall ensure that the construction of the non-regulated public water system either was approved in accordance with Rule .0301(a) of this Subchapter or that backflow prevention is provided in accordance with this Rule;
- (C) non-potable water treatment processes within a potable water treatment plant; and
- (D) all cross-connections between potable water supplies and non-potable or unprotected supplies that are not specifically addressed in this Rule or AWWA M-14 Backflow Prevention and Cross Connection Control.
- (4) Backflow Prevention Not Addressed by the Plumbing Code. The following requirements shall apply to backflow prevention not addressed by the plumbing code.
- (A) Testable backflow prevention assemblies shall meet American Society of Sanitary Engineering (ASSE) standards and carry an ASSE seal, be on the University of Southern California approval list for testable backflow prevention assemblies, or be on the North Carolina State Plumbing Code approval list for approved testable backflow prevention assemblies.
- (B) For each identified water treatment process-related hazard, the supplier of water shall provide the appropriate backflow prevention assembly or method to protect the water supply and water treatment employees, in accordance with AWWA M-14 Backflow Prevention and Cross Connection Control.
- (C) No person shall fill special use tanks or tankers containing pesticides, fertilizers, other toxic chemicals, or their residues from a public water system except at a location equipped with an over-the-rim free discharge of water or a reduced pressure backflow preventer properly installed on the public water supply. No supplier of water shall permit the filling of such special use tanks or tankers except at locations so equipped.
- (D) A supplier of water shall not authorize for construction or other temporary, non-emergency use connections to hydrants that are not equipped with an approved air gap or an installed reduced pressure principle backflow prevention assembly.
- (E) If storage capacity is used only for non-potable purposes and there is installed either an elevated or ground tank or a ground reservoir, the following precautions shall be taken:
- (i) If the reservoir or tank is filled from a supply other than a public water supply and the public water supply is used as a supplemental supply, the pipeline from the public water supply shall be installed with an air gap.
- (ii) If the reservoir or tank is filled entirely by water from a public water supply and:
- (I) a covered ground reservoir or covered elevated tank is used, an approved reduced pressure back-flow preventer or an approved double check valve assembly shall be used; or

- (II) an uncovered ground reservoir or uncovered elevated tank is used, an air gap shall be required.
- (F) Installation. The following installation requirements shall be met, where applicable.
- (i) Backflow prevention assemblies shall be installed in accordance with manufacturers' recommendations and specifications and shall not be modified in the field.
 - (ii) Back-flow prevention assemblies shall be located and installed in such a manner as to function as designed; be accessible for testing, maintenance, and inspection; and include all necessary test cocks and drains for testing. Valves shall be installed in the line at both ends of the back-flow prevention device to provide for replacement and maintenance.
 - (iii) Bypass lines parallel to a backflow prevention assembly shall have an approved backflow prevention assembly installed that is equal to that on the main line.
 - (iv) Reduced pressure principle assemblies shall be installed above ground or below ground in a vault with positive gravity drainage to atmosphere employing a drain of sufficient size to handle the full flow of discharge from a discharging assembly, 12-inch minimum clearance from vault walls and floor, and in accordance with manufacturer's recommendations. A reduced pressure principle assembly may be installed as protection for either a high-health or low-health hazard.
 - (v) Double check valve assemblies shall be installed either vertically or horizontal and above ground or below ground in a vault with positive gravity drainage to the atmosphere. A double check valve assembly shall be installed as protection for a low-health hazard only.
- (vi) Pressure vacuum breaker assemblies shall be installed only where there is no possibility of a pressure higher than the supply pressure caused by a pump, elevated tank, boiler, air or steam pressure, or any other means which may cause backflow, and in accordance with manufacturer's recommendations. A pressure vacuum breaker shall be installed as protection for a high-health or low-health hazard that is subject to backsiphonage only and with no backpressure.
- (5) Interconnection to a public water system shall be subject to the approval of the supplier of water and shall not be made until authorized by the supplier of water.
 - (6) A community or non-transient non-community public water system with five or more testable backflow prevention assemblies protecting the distribution system, as required pursuant to this Rule, shall maintain the following records beginning on January 1, 2020:
 - (A) records of the location, type, installation date, size, and the associated degree of hazard of backflow prevention devices whose failure would create a high-health hazard;
 - (B) a description of specific ongoing plans, actions, or schedules to inventory existing backflow prevention devices under Part (b)(5)(A) of this Rule and to identify and address all uncontrolled cross-connection hazards;
 - (C) final results of all backflow prevention assembly field testing and air gap inspections; and
 - (D) review of new service connections and existing service connections during a change of the account owner to ensure all required backflow prevention devices are properly installed and tested.
 - (E) a supplier of water which contracts with a third-party to implement any

part of their cross-connection program may allow records required by this Paragraph to be maintained on the premises of the third-party, as long as the records are available on demand by the supplier of water.

- (F) program records under Part (C) of this Subparagraph shall be maintained for a minimum of four years. Remaining records referred to in this Paragraph shall be maintained while still current or in use.
- (7) Each supplier of water shall notify the Department of any known incident of backflow into the public water system that creates a risk of contamination as soon as practical upon discovery of the incident but no later than the end of the next business day. If requested by the Department, the supplier of water shall submit a written report of the incident describing the nature and severity of the backflow, the actions taken by the supplier of water in response to the incident, and the action plan intended to prevent such incidents in the future.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523; Eff. January 1, 1977; Readopted Eff. December 5, 1977; Amended Eff. April 1, 2014; September 1, 1990; December 1, 1988; June 30, 1980;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0408 LEAD FREE CONSTRUCTION

(a) All pipe, pipe fitting, solder or flux used in the installation or repair of a public water system shall be lead free.

(b) "Lead free" means:

- (1) not containing more than 0.2 percent lead when used with respect to solder and flux; and
- (2) not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;

Eff. June 1, 1988;

Amended Eff. August 1, 2002;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0409 SERVICE CONNECTIONS

(a) Local Water Supply Plan. Units of local government that are operating under a local water supply plan in accordance with G.S. 143-355(l) shall not be limited in the number of service connections.

(b) No local water supply plan. A public water system that does not have a local water supply plan as stated in Paragraph (a) shall limit its number of service connections as follows:

- (1) A public water system shall meet the daily flow requirements specified in Table 1:

Table 1: Daily Flow Requirements

Type of Service Connection	Daily Flow for Design
Residential	400 gallon/connection
Mobile Home Parks	250 gallon/connection
Campgrounds and Travel Trailer Parks	100 gallon/space
Marina	10 gallon/boat slip
Marina with bathhouse	30 gallon/boat slip
Rest Homes and Nursing Homes	
with laundry	120 gallon/bed
without laundry	60 gallon/bed
Schools	15 gallon/student
Day Care Facilities	15 gallon/student
Construction, work, or summer camps	60 gallon/person
Business, office, factory (exclusive of industrial use)	
without showers	25 gallon/person/shift
with showers	35 gallon/person/shift
Hospitals	300 gallon/bed

or;

- (2) A public water system shall meet the daily flow requirements calculated as follows:
- (A) If records of the previous year are available that reflect daily usage, the average of the two highest consecutive days of record of the water treated shall be the value used to determine if

there is capacity to serve additional service connections. Unusual events, such as massive line breaks or line flushings, shall not be considered.

- (B) If complete daily records of water treated are not available, the public water system shall multiply the daily

average use based on the amount of water treated during the previous year of record by the appropriate factor to determine maximum daily demand, as follows:

- (i) A system serving a population of 10,000 or less shall multiply the daily average use by 2.5; or
- (ii) A system serving a population greater than 10,000 shall multiply the daily average use by 2.0.

(c) A supplier of water shall include the impact that demands from anticipated in-ground irrigation systems, multi-family units, or vacation rental homes will have on the daily flow needs determined in Paragraph (b) of this Rule.

(d) If two years of metered usage data exists, a supplier of water may recalculate the daily flow requirements based on the actual usage. If actual demands are lower than the projected demand, recovered supply may be used to support additional connections in accordance with Paragraph (b) of this Rule.

(e) A supplier of water shall be exempt from using Table 1 in Subparagraph (b)(1) of this Rule and any other design flow standards established by the Department or the Commission to determine the daily flow requirements, provided that a professional engineer licensed pursuant to G.S. 89C prepares, seals, and signs documentation supporting alternative daily flow requirements that are sufficient to sustain the water usage required in the engineering design by using low-flow fixtures or flow reduction technologies.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. July 1, 1994;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0503 OTHER DESIGN STANDARDS

In evaluating public water systems or water system design features, in addition to the rules in this Subchapter, the Department shall consider standards from the American Water Works Association or Recommended Standards for Water Works – Policies for the Review and Approval of Plans and Specifications for Public Water Supplies by the Great Lakes – Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers which are incorporated by reference, including any subsequent amendments and editions. Copies of the American Water Works Association standards may be obtained from the American Water Works Association, 6666 W. Quincy Avenue, Denver, Colorado 80235 with costs determined by the American Water Works Association and available at www.awwa.org/Publications/Standards. Copies of the Recommended Standards for Water Works may be obtained from the Minnesota Department of Administration available at <https://www.mnbookstore.com/other/miscellaneous-state-agency-products/miscellaneous/recommended-standards-water-14349.html> and for a cost of nineteen dollars and ninety-five cents (\$19.95). An electronic copy can be obtained at no cost from the Minnesota Department of Health website, located at

<https://www.health.state.mn.us/communities/environment/water/tenstates/standards.html>.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. July 1, 2019 (this Rule was previously codified in 15A NCAC 18C .0715).

15A NCAC 18C .0601 IMPOUNDMENTS: PRE-SETTLING RESERVOIRS

(a) Construction of a pre-settling reservoir shall be required if wide and rapid variations in turbidity, bacterial concentrations, or chemical qualities occur, or where the following raw water quality standards are not met: turbidity - 150 NTU, coliform bacteria - 3000/100 ml, fecal coliform bacteria - 300/100 ml, or color - 75 CU. If impoundment of the water supply stream does not or will not provide raw water of acceptable quality, a pre-settling reservoir located outside the watershed or catchment area shall be required.

(b) The Department shall approve alternatives to pre-settling reservoirs if a supplier of water demonstrates that engineered pretreatment providing an additional treatment barrier to low raw water quality will be installed and that the overall designed treatment process will comply with all other applicable requirements of this Subchapter. Pilot plant studies under Rule .0714 of this Subchapter shall be required to demonstrate treatment effectiveness unless operational data demonstrating treatment effectiveness for the variety of water quality that is experienced at the treatment facility are already available.

(c) The Department shall approve capacity increases at existing surface water treatment facilities without addition or up-sizing of pre-settling reservoirs if:

- (1) historical data or full-scale pilot studies demonstrate that the plant will provide treatment in accordance with this Subchapter without additional pre-settling; or
- (2) the use of alternative technology alleviates the need for additional pre-settling.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0703 MECHANICAL FLOCCULATION

(a) Basin Inlet and Outlet. The design of inlets and outlets of flocculation basins shall prevent short circuiting of the water and destruction or deterioration of the floc.

(b) Detention Period. The flocculation basins shall have a theoretical detention period of not less than 30 minutes.

(c) Agitator Control. The agitators of flocculation basins shall be equipped with variable speed controls.

(d) Paddles. Peripheral speed and paddle configuration shall be designed to obtain optimum velocity gradient.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Amended Eff. July 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;

Amended Eff. July 1, 2019.

15A NCAC 18C .0706 SEDIMENTATION BASINS

(a) Inlets. Inlets to sedimentation basins shall be designed to dissipate inlet velocities before the diffusion walls or before other entrance arrangements designed to provide uniform flow across the basins.

(b) Detention Period. A theoretical detention period of four hours shall be the minimum standard unless case specific engineering evidence is presented to demonstrate equivalent treatment efficiency at a shorter period of detention.

(c) Bottom of Basin. The bottom of the basin shall be sloped and provided with a drain valve or valves for removal of sludge.

(d) Outlet. Sedimentation basin outlets shall consist of submerged weirs or orifices. The equivalent rate of flow over or through the outlet device shall not exceed 20,000 gallons per day per foot of equivalent weir length.

(e) Overflow. Sedimentation basins shall be equipped with an overflow pipe or pipes to limit the maximum water level over the filters and to prevent flooding above the walls of filters and basins.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Amended Eff. April 1, 2014;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0707 SOLIDS CONTACT OR UP-FLOW UNITS

(a) Approval of Solids Contact or Up-Flow Units. Solids contact or up-flow clarification units shall be approved only if raw water characteristics are constant and shall not be approved for raw waters that have wide and rapid variations in turbidity or other qualities that adversely affect the treatment process.

(b) Water Rise Rate. The rise rate shall not exceed 1.0 gallon per minute per square foot of clarification area.

(c) Weir Loading. Weir loading shall not exceed 10 gallons per minute per foot of weir length. Horizontal flow to the collection trough shall not exceed 10 feet.

(d) Speed Agitator Equipment. Mixing and flocculation shall be accomplished by means of adjustable, variable speed agitator equipment.

(e) Sludge Withdrawal. Sludge withdrawal equipment shall include an intermittent sludge removal mechanism controlled by an adjustable automatic timer.

(f) Basin Drain. The basin shall be provided with a bottom drain that is of sufficient size to empty the basin in two hours or less.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Amended Eff. July 1, 1994;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0708 GRAVITY FILTERS

(a) Filtration Rates. The standard rate of filtration for a single media filter shall be two gallons per minute per square foot. Higher filtration rates up to four gallons per minute per square foot may be approved for dual media or multi-media filters. Filtration rates in excess of four gallons per minute per square foot may be approved subject to pilot plant or plant scale demonstrations conducted in accordance with Rule .0714 of this Section, and demonstrated equivalent treatment efficiency based on case-specific engineering evidence.

(b) Wash Water Rate. The backwash rate of flow shall be designed to theoretically expand the filter media 50 percent.

(c) Rate Control Devices. Rate control equipment shall be provided to control or regulate the filtration rate and the backwash rate. If declining rate filtration is to be used, orifice plates shall be installed on each filter effluent pipe to control maximum filtration rates.

(d) Surface Washers. Filter beds shall be equipped with a revolving or fixed system of nozzles designed for agitation of the entire beds.

(e) Gauges and Flow Indicators. Gauges or meters shall be installed to indicate the rate of filtration, the loss of head, and the backwash rate for every filter.

(f) Filter Media:

(1) Filter Sand. Filter sand shall be clean silica sand having:

(A) an effective size of 0.35 mm to 0.55 mm;

(B) a uniformity coefficient of not more than 1.70;

(C) a dust content passing 150 mesh tyler of less than 0.5 percent; and

(D) a minimum depth of at least 24 inches.

(2) Anthracite Filter Media. If anthracite coal is used as a single filter media, it shall have an effective size of 0.35 mm to 0.55 mm and a uniformity coefficient of 1.70 or less. Minimum depth of the media shall be 24 inches.

(3) Dual Media or Multi-Media Filters. Particle sizes in dual media and mixed media filter beds shall be within 0.15 mm to 1.2 mm. Influent water quality shall be considered in specifying particle sizes of mixed media beds. The minimum depth of the filter media shall be 24 inches.

(g) Supporting Media and Underdrain System. The underdrain system and layers of gravel or other media supporting the filter media shall be designed to provide uniform filtration and uniform backwash throughout the filter media.

(h) Wash Water Troughs Elevation. The elevation of the bottom of the wash water troughs for new installations shall be above the maximum level of the expanded media during washing at the normal design wash water rate. The elevation of the top of the wash water troughs shall provide a two-inch freeboard above the expanded media at the maximum rate of wash.

(i) Turbidity Monitoring. Turbidimeters employing the nephelometric method, which measures the intensity of scattered

light, shall be provided for the continuous determination of the turbidities of filtered water from each filter unit.

(j) Sampling Tap. A tap shall be installed for sampling of the effluent from each filter.

(k) Multiple Filter Units. Two or more filter units shall be provided such that the annual average daily demand can be satisfied at the approved filtration rate with one filter removed from service.

(l) Structural Design. Filters shall have vertical walls with no protrusions or curvature. Floors of filter rooms shall be designed to prevent flooding or spillage into filters through overflow drainage and a minimum of four-inch curbs around the filters.

(m) Filter to Waste. All filters shall have provisions for filtering to waste with backflow prevention.

(n) Filter Backwash. Backwash capacity to ensure cleaning of the filters shall be provided.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Amended Eff. July 1, 1994; January 1, 1978;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0711 ALTERNATIVE FILTRATION TREATMENT TECHNOLOGIES

A public water system may propose an alternative filtration treatment technology as provided in Rule .2003 of this Subchapter. The Department shall approve alternative filtration treatment technologies when the following conditions have been met and equivalent treatment efficiency, based on case-specific engineering evidence, has been demonstrated.

- (1) The source waters shall be derived from WS-I, WS-II, or WS-III watersheds.
- (2) The raw water quality standards and fluctuations shall be as specified in Rule .0710(6) of this Section, except that the following maximum concentrations shall be allowed in the influent water to the water treatment plant: Turbidity - 20 NTU, coliform - 500/100 ml, fecal coliform - 50/100 ml, and color - 20 CU.
- (3) Off-stream pre-treatment or storage shall be provided as specified in Rule .0710 of this Section, except that the raw water quality standards of Item (2) of this Rule shall be maintained in the water treatment plant influent water.
- (4) If the proposed water treatment plant employs treatment techniques that are consistent with this Subchapter, a pilot study shall be conducted in accordance with Rule .0714 of this Section.
- (5) If the pilot study demonstrates that the proposed water treatment plant can produce water that complies with all requirements of this Subchapter, engineering plans and specifications for the proposed plant and appurtenances shall be presented to the

Department for review and approval prior to construction or letting a construction contract.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. July 1, 1994;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0713 PRESSURE FILTERS

(a) Pressure filters shall not be used in treatment of surface waters without prior coagulation and flocculation.

(b) Pressure filters shall be approved for treatment of existing groundwater sources under the influence of surface water under the following conditions:

- (1) design standards for gravity filters shall meet the requirements set forth in Rule .0708 of this Section;
- (2) overall plant design shall comply with Rule .0404 of this Subchapter;
- (3) special design or operational features or modifications shall be provided when needed due to the water quality or the design of the proposed filter;
- (4) if the proposed water treatment plant employs treatment techniques that are consistent with this Subchapter, a pilot plant study shall be conducted in accordance with Rule .0714 of this Section; and
- (5) if the pilot study demonstrates that the proposed plant can produce water that complies with all requirements of this Subchapter, engineering plans and specifications for the proposed plant and appurtenances shall be presented to the Department for review and approval prior to construction or letting a construction contract.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. July 1, 1994;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0714 PILOT PLANT STUDIES

(a) A pilot plant study proposal shall be submitted to the Department for approval before the study is conducted.

The proposal shall be approved if it meets all of the following conditions and includes all of the following information:

- (1) An engineering report shall describe the proposed study and shall include the information and data to justify the use of the particular plant to treat the source water.
- (2) The proposed plant shall employ treatment techniques that are consistent with this Subchapter.
- (3) The pilot plant shall be of the same design and operation as the proposed plant.
- (4) A protocol for conducting the study shall be submitted that includes the duration, testing procedures, reporting procedures, plant scale,

and other factors that affect the proposed plant operation.

- (5) The study shall be conducted over a time sufficient to treat all worst-case source water conditions expected through the year.

(b) Pilot plant finished water shall not be approved by the Department for introduction into a public water system unless case specific engineering evidence is presented to demonstrate that it will not adversely impact compliance with water quality requirements specified in this Subchapter.

(c) A model plant may be proposed without on-site testing if the proposed plant or pilot plant has met the following conditions:

- (1) been tested under worst case conditions on similar water;
- (2) achieved the required log inactivation and removal under Section .2000 of this Subchapter for Giardia, Cryptosporidium, and viruses; and
- (3) achieved a maximum of 0.3 NTU turbidity levels 95 percent of the time in filtered effluent.

(d) The pilot plant shall comply with the provisions of Section .2000 of this Subchapter.

(e) If the proposal includes a change of treatment as defined in Rule .1507 Corrosion Control and Lead and Copper Monitoring of this Subchapter, the pilot study shall consider the effect of the proposed changes in compliance with lead, copper, and water quality parameters.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. July 1, 1994;

Amended Eff. October 1, 2009;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0715 OTHER DESIGN STANDARDS

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. July 1, 1994;

Amended Eff. April 1, 2014;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;

Repealed Eff. July 1, 2019 (this rule was recodified to 15A NCAC 18C .0503).

15A NCAC 18C .0803 CAPACITIES: DETERMINING TOTAL VOLUME

The total volume of a pressure tank shall be calculated by applying the principle of Boyle's Law as set forth in this Rule.

- (1) For a mobile home park, the total volume measured in gallons shall be not less than 25 times the number of connections or 500 gallons, whichever is greater.
- (2) For a residential community water system the total volume shall not be less than 40 times the number of connections or 500 gallons, whichever is greater.
- (3) For a campground, the total volume shall not be less than 10 times the number of connections or 500 gallons, whichever is greater.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Amended Eff. July 1, 1994; March 31, 1980;

Readopted Eff. July 1, 2019.

15A NCAC 18C .0904 PIPE LAYING

(a) Trenching, pipe laying, and backfilling shall be accomplished in a manner to prevent damage to and misalignment of the pipe. Water mains shall be buried to a depth below the frost line or to a depth sufficient to provide a minimum of 30 inches cover, whichever is greater. In cases where it is impracticable to provide 30 inches of cover taking into consideration feasibility and cost, a deviation may be approved on a case-by-case basis, if supported by data from the design engineer including consideration of pipe material, cover material, land cover, land use, land slope, the depth of the frost line, and the location of other utilities.

(b) To allow for construction and repair, a minimum distance of 12 inches shall be maintained between the outside of the water main and the outside of other utilities.

(c) If an engineer demonstrates it is impractical to maintain the separation distances required by this Rule, taking into consideration feasibility, cost, and the factors set forth in this Paragraph, a deviation may be approved on a case-by-case basis if supported by data and alternative construction criteria submitted by the design engineer. Data and alternative construction criteria submitted by the design engineer to justify the deviation shall describe:

- (1) the rationale for determining that separation criteria described in Paragraphs (a) and (b) of this Rule are impracticable;
- (2) the extent of the deviation from separation criteria in Paragraphs (a) and (b) of this Rule;
- (3) a consideration of pipe materials, pressure ratings, type of joints for water main and non-potable water line, and soil conditions;
- (4) the ability to provide adequate work space to repair or replace pipe segments or other utility infrastructure without causing damage to or otherwise compromising the integrity of pipes; and
- (5) the rationale for determining that the deviation will not result in unreasonable risk to public health.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;

Amended Eff. July 1, 2019.

15A NCAC 18C .0906 RELATION OF WATER MAINS TO NON-POTABLE WATER LINES

(a) For the purposes of this Rule, sewer shall mean any existing or proposed gravity or force main used to convey sanitary or industrial process waste.

(b) Lateral Separation of Sewers and Water Mains. Water mains shall be laid at least 10 feet laterally from existing or proposed sewers, unless local conditions or barriers prevent a 10-foot lateral separation, in which case:

- (1) the water main shall be laid in a separate trench, with the elevation of the bottom of the water main at least 18 inches above the top of the sewer; or
- (2) the water main shall be laid in the same trench as the sewer, with the water main located at one side on a bench of undisturbed earth and with the elevation of the bottom of the water main at least 18 inches above the top of the sewer.

(c) Crossings. A water main that crosses a sewer shall be laid a minimum vertical distance of 18 inches from the outside of the water main and the outside of the sewer, either above or below the sewer, with preference to the water main located above the sewer. One full length of water pipe shall be located so that both joints will be as far from the sewer as possible.

(d) Water Mains and Storm Sewer Pipes. Pipes carrying storm drainage shall be separated from water lines in accordance with Rule .0904 of this Section.

(e) Water Mains and Reclaimed Water Distribution Lines. Water lines shall be located at least 10 feet horizontally from or at least 18 inches above water pipes carrying treated and disinfected wastewater in reclaimed water distribution lines. Crossings shall be made in accordance with Paragraph (c) of this Rule.

(f) Special Conditions. If an engineer demonstrates it is impracticable to maintain the separation distances required by this Rule, taking into consideration feasibility, cost, and the factors set forth in this Paragraph, the deviation may be approved on a case-by-case basis, if supported by data and alternative construction criteria provided by the design engineer. Data and alternative construction criteria submitted by the design engineer to justify the deviation must describe:

- (1) the rationale for determining that separation criteria described in this Rule are impracticable;
- (2) the extent of the deviation from separation criteria in this Rule;
- (3) a consideration of pipe materials, pressure ratings, type of joints for water main and non-potable water line, and soil conditions;
- (4) the ability to provide adequate work space to repair or replace pipe segments or other utility infrastructure without causing damage to or otherwise compromising the integrity of pipes; and
- (5) the rationale for determining that the deviation will not result in unreasonable risk to public health.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;
Eff. January 1, 1977;
Readopted Eff. December 5, 1977;
Readopted Eff. July 1, 2019.

15A NCAC 18C .1002 DISINFECTION OF WELLS

(a) After construction, servicing, maintenance, or any other activity or event that might lead to contamination of the water, wells shall be disinfected in accordance with ANSI/AWWA C654-13, "Disinfection of Wells." Copies may be obtained for public inspection as set forth in Rule .0503 of this Subchapter.

(b) After disinfection, wells shall not be placed into service until bacteriological test results of representative water samples analyzed by a certified laboratory are found to be satisfactory.

(c) Records demonstrating compliance with ANSI/AWWA Standard C654-13 shall be available for three years for inspection by the Department.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;
Eff. January 1, 1977;
Readopted Eff. December 5, 1977;
Amended Eff. July 1, 1994;
Readopted Eff. July 1, 2019.

15A NCAC 18C .1003 DISINFECTION OF STORAGE TANKS AND DISTRIBUTION SYSTEMS

(a) Water distribution systems, including storage tanks and water mains, after flushing to remove sediment and other foreign matter, and after testing for leaks, shall be disinfected in accordance with ANSI/AWWA Standard C652-11; "Disinfection of Water Storage Facilities" or in accordance with ANSI/AWWA C651-14; "Disinfection of Water Mains." Copies may be obtained for public inspection as set forth in Rule .0503 of this Subchapter.

(b) After disinfection, water storage or distribution facilities shall not be placed into service until bacteriological test results of representative water samples analyzed by a certified laboratory are found to be satisfactory.

(c) Records demonstrating compliance with ANSI/AWWA Standards C652-11 or ANSI/AWWA Standard 651-14 shall be available for three years for inspection by the Department.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;
Eff. January 1, 1977;
Readopted Eff. December 5, 1977;
Amended Eff. January 1, 1978;
Readopted Eff. July 1, 2019.

15A NCAC 18C .1004 DISINFECTION OF WATER TREATMENT FACILITIES

(a) New water treatment facilities and existing water treatment facilities taken out of service for cleaning, inspection, maintenance, painting, repair, or other activities or events that might lead to contamination of water shall be disinfected in accordance with ANSI/AWWA Standard C653-13, "Disinfection of Water Treatment Facilities." Copies may be obtained for public inspection as set forth in Rule .0503 of this Subchapter.

(b) After disinfection the water treatment facilities shall not be placed into service until bacteriological test results of representative water samples analyzed by a certified laboratory are found to be satisfactory.

(c) Records demonstrating compliance with ANSI/AWWA Standard C653-13 shall be available for three years for inspection by the Department.

History Note: Authority G.S. 130A-315; 130A-317; P.L. 93-523;

Eff. January 1, 1977;

Readopted Eff. December 5, 1977;

Amended Eff. July 1, 1994;

Readopted Eff. July 1, 2019.

15A NCAC 18C .1406 CONTROL OF FLUORIDE PROCESS

(a) Fluoride Levels. Fluoride levels shall not exceed the MCL set forth in Rule .1510 of this Subchapter. A supplier of water that is adding fluoride to the treated water shall maintain the following fluoride levels:

- (1) an operational control range for fluoride of 0.6 mg/l to 1.0 mg/l shall be established;
- (2) the monthly average of the daily measurements at the entry point to the distribution system shall be within the operational control range; and
- (3) 80 percent of the daily measurements at the entry point to the distribution system shall be within the operational control range.

(b) A water treatment plant operator certified pursuant to 15A NCAC 18D shall conduct the necessary chemical analyses and supervise application of the fluoride.

(c) Sample Location and Frequency.

- (1) Daily Monitoring. A supplier of water shall measure the fluoride concentration at least once per day at each entry point to the distribution system with fluoridated water.
- (2) Split Samples. One entry point sample collected pursuant to Subparagraph (c)(1) of this Rule shall be split equally on a monthly basis. One portion shall be analyzed by water system personnel and the other portion analyzed by the North Carolina State Laboratory for Public Health or another laboratory certified to analyze drinking water samples for fluoride by the North Carolina State Laboratory of Public Health. A supplier of water that has all fluoride samples under this Rule analyzed by a laboratory certified to analyze drinking water samples for fluoride by the North Carolina State Laboratory for Public Health shall not be required to conduct split sampling.
- (3) Distribution System Monitoring. The supplier of water of a public water system that has multiple entry points that are either not all fluoridated or the fluoride level at an entry point to the distribution system is not within the range set forth in Subparagraph (a)(1) of this Rule shall conduct sampling as follows:

- (A) measure the fluoride concentration in the distribution system at least two times per month;

- (B) one sample per month shall be a split sample and analyzed in accordance with Subparagraph (c)(2) of this Rule;
- (C) sample sites shall be rotated throughout the distribution system at monitoring locations approved for coliform compliance sampling; and
- (D) sample results shall be available for review by the Department upon request.

(4) Annual Raw Water Sample. A supplier of water shall measure the fluoride concentration of the raw water at least annually by a laboratory certified to analyze fluoride in drinking water by the North Carolina State Laboratory of Public Health.

(5) Discrepancies. A supplier of water shall compare the results of the split samples and shall consult with the North Carolina State Laboratory of Public Health to investigate and resolve all discrepancies greater than 15 percent within 30 days of receipt.

(d) Analysis Methods. The fluoride content of water shall be determined in accordance with methods set forth in Rule .1508 of this Subchapter.

(e) Monthly Reporting. Records of all fluoride analyses performed in accordance with Subparagraph (c)(1) of this Rule, shall be recorded on forms approved by the Department and submitted to the Department monthly. The forms shall specify the sample dates, times, locations, and results. Fluoride results performed by certified laboratories in accordance with Subparagraph (c)(1) of this Rule, shall be reported by the certified laboratory electronically in a format prescribed by the Department.

(f) Reporting Exceedances. Any fluoride result above the MCL set forth in Rule .1510 of this Subchapter shall be reported to the Department as soon as possible, but in all cases within 24 hours after receipt of the analysis.

(g) Fluoride Products. All fluoridation products used by a public water system shall meet the requirements of Rule .1537 of this Subchapter.

(h) Discontinuation of Fluoridation. Prior to the discontinuation of fluoride addition, a supplier of water shall provide to the Department and the Department of Health and Human Services, Oral Health Section, copies of documentation by the unit of local government or the governing body operating the community water system that:

- (1) the resolution provided in the formal application to add fluoride has been rescinded or replaced; and
- (2) the local board of health has been notified.

History Note: Authority G.S. 90A-29; 130A-316;

Eff. February 1, 1976;

Readopted Eff. December 5, 1977;

Amended Eff. April 1, 2014; July 1, 1994; September 1, 1990; December 17, 1979;

Readopted Eff. July 1, 2019.

15A NCAC 18C .1507 CORROSION CONTROL AND LEAD AND COPPER MONITORING

(a) Control and adjustment of pH shall be provided for community water systems having water with a pH below 6.5. This control and adjustment shall be approved by the Department pursuant to the rules in Section .0300 of this Subchapter. If the community water system is also required to install corrosion control treatment to comply with (c) of this Rule, it shall meet the minimum pH level required pursuant to Paragraph (c) of this Rule.

(b) The provisions of 40 C.F.R. 141.42 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

(c) The provisions of 40 C.F.R. 141, Subpart I - Control of Lead and Copper are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;
 Eff. September 1, 1979;
 Amended Eff. October 1, 1982; February 27, 1982;
 Transferred and Recodified from 10 NCAC 10D .1621 Eff. April 4, 1990; Amended Eff. April 1, 2014; July 1, 1994; October 1, 1992; December 1, 1991;
 Readopted Eff. July 1, 2019.

15A NCAC 18C .1508 INORGANIC CHEMICAL SAMPLING AND ANALYSIS

The provisions of 40 C.F.R. 141.23 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter. In addition, two or more water systems that are adjacent, that are owned or operated by the same supplier of water, and that together serve 15 or more service connections or 25 or more persons shall submit samples every three years from each section of the water system that is supplied from a separate source.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;
 Eff. September 1, 1979;
 Amended Eff. March 1, 1989; February 1, 1987; October 1, 1986; April 1, 1983;
 Transferred and Recodified from 10 NCAC 10D .1625 Eff. April 4, 1990;
 Amended Eff. April 1, 2014; July 1, 1994; April 1, 1992; December 1, 1991;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;
 Amended Eff. July 1, 2019.

15A NCAC 18C .1509 SPECIAL MONITORING FOR SODIUM

The provisions of 40 C.F.R. 141.41 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(a) and (b) of this Subchapter.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;
 Eff. February 27, 1982;

*Transferred and Recodified from 10 NCAC 10D .1636 Eff. April 4, 1990;
 Amended Eff. April 1, 2014; July 1, 1994; September 1, 1990;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;
 Amended Eff. July 1, 2019.*

15A NCAC 18C .1511 CONCENTRATION OF IRON

The requirements of this Rule shall apply only to community water systems. A community water system that has an iron concentration in excess of 0.30 mg/l shall provide treatment to control the water quality. Analysis of samples shall be made on an as needed basis determined by the Department and shall include the addition of a new well or other raw water source, an approval of a new community water system, an approval of an existing system not previously approved, or problems and complaints of water quality normally associated with iron concentration.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;
 Eff. September 1, 1979;
 Transferred and Recodified from 10 NCAC 10D .1619 Eff. April 4, 1990;
 Amended Eff. July 1, 1994;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;
 Amended Eff. July 1, 2019.

15A NCAC 18C .1512 CONCENTRATION OF MANGANESE

The requirements of this Rule shall apply only to community water systems. A community water system that has a manganese concentration in excess of 0.05 mg/l shall provide treatment to control the water quality. Analysis of samples shall be made on an as needed basis determined by the Department. Such as needed basis shall include an addition of a new well or other raw water source, an approval of a new community water system, an approval of an existing system not previously approved, or problems and complaints of water quality normally associated with manganese concentration.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;
 Eff. September 1, 1979;
 Amended Eff. September 9, 1980;
 Transferred and Recodified from 10 NCAC 10D .1620 Eff. April 4, 1990;
 Amended Eff. July 1, 1994;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;
 Amended Eff. July 1, 2019.

15A NCAC 18C .1515 ORGANIC CHEMICALS OTHER THAN TTHM, SAMPLING AND ANALYSIS

(a) The requirements of this Rule shall apply to community and non-transient non-community water systems. The provisions of 40 C.F.R. 141.24 are incorporated by reference, including

subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

(b) If the result of an analysis made pursuant to Paragraph (a) of this Rule indicates that the level of any contaminant regulated under this Subchapter exceeds the maximum contaminant level, the supplier of water shall report to the Department within 48 hours of receipt of the analytical result.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;

Eff. September 1, 1979;

Amended Eff. November 1, 1989; December 1, 1988; June 1, 1988; October 1, 1982;

Transferred and Recodified from 10 NCAC 10D .1624 Eff. April 4, 1990;

Amended Eff. April 1, 2014; August 1, 2002; April 1, 1992; December 1, 1991; September 1, 1990;

Readopted Eff. July 1, 2019.

15A NCAC 18C .1516 SPECIAL MONITORING FOR UNREGULATED CONTAMINANTS

The provisions of 40 C.F.R. 141.40 are incorporated by reference including subsequent amendments and editions. Copies are available for public inspection as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-313; 130A-315; P.L. 93-523; 40 C.F.R. 141;

Eff. June 1, 1988;

Amended Eff. November 1, 1989;

Transferred and Recodified from 10 NCAC 10D .1638 Eff. April 4, 1990; Amended Eff. April 1, 2014; July 1, 1994; April 1, 1992; December 1, 1991; August 1, 1990;

Readopted Eff. July 1, 2019.

15A NCAC 18C .1519 MONITORING FREQUENCY FOR RADIOACTIVITY

The requirements of this Rule shall apply to community water systems and community adjacent water systems, as defined in G.S. 130A-315(b2). The provisions of 40 C.F.R. 141.26 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-313; 130A-315; P.L. 93-523; 40 C.F.R. 141;

Eff. September 1, 1979;

Amended Eff. March 1, 1989; September 9, 1980; December 19, 1979;

Transferred and Recodified from 10 NCAC 10D .1627 Eff. April 4, 1990;

Amended Eff. April 1, 2014; August 1, 2002; July 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;

Amended Eff. July 1, 2019.

15A NCAC 18C .1523 PUBLIC NOTIFICATION REQUIREMENTS

(a) The provisions of 40 C.F.R. 141, Subpart Q – Public Notification of Drinking Water Violations are incorporated by reference, including subsequent amendments and editions. As authorized by 40 C.F.R. 141.205(c)(2), the Department has determined that multi-lingual notice shall be given if 30 percent or more of the consumers served by the system are non-English speaking. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

(b) Special notification for distribution system samples. The requirements of this Paragraph shall be in addition to the public notice requirements set forth in Paragraph (a) of this Rule and to the reporting requirements contained in Rule .1525 of this Subchapter. If a distribution sample that is required to be reported to the Division is taken from the plumbing of a school or daycare, place of residence, or location supplying permanent or temporary housing, the supplier of water shall notify the billing customer at the sampled address if any individual water sample exceeds an action level, maximum contaminant level, or maximum residual disinfectant level established in this Subchapter or if any individual sample is positive for E. coli or any other fecal indicator, as follows:

- (1) For a contaminant listed as Tier 1 in Appendix A to 40 C.F.R. 141, Subpart Q, notice shall be provided within 24 hours of receipt of analytical results. If the initial contact is by telephone, written notice by mail or direct delivery shall also be provided within 48 hours of analytical results. The written notice shall include the analytical results and appropriate health effects language as required by Appendix B to 40 C.F.R. 141, Subpart Q.
- (2) For a contaminant listed as Tier 2 or Tier 3 in Appendix A to 40 C.F.R. 141, Subpart Q, notice shall be provided within 48 hours of receipt of analytical results. Written notice shall be provided by mail or direct delivery and shall include the analytical results and appropriate health effects language as required by Appendix B to 40 C.F.R. 141, Subpart Q.
- (3) The supplier of water shall submit a copy of the written notice and certification of delivery to the Department within 10 days of completing notification.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;

Eff. January 1, 1990;

Transferred and Recodified from 10 NCAC 10D .1642 Eff. April 4, 1990;

Amended Eff. April 1, 2014; October 1, 2006; August 1, 2002; April 1, 1992; December 1, 1991; January 1, 1991; October 1, 1990;

Readopted Eff. July 1, 2019.

15A NCAC 18C .1524 REPORTING FOR UNREGULATED CONTAMINANT MONITORING RESULTS

The provisions of 40 C.F.R. 141.35 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;

Eff. June 1, 1988;

Amended Eff. November 1, 1989;

Transferred and Recodified from 10 NCAC 10D .1640 Eff. April 4, 1990;

Readopted Eff. July 1, 2019.

15A NCAC 18C .1525 REPORTING REQUIREMENTS

(a) The requirements of this Rule shall apply to all public water systems. The provisions of 40 C.F.R. 141.31 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter. Any dates set forth in the federal rule shall be applicable.

(b) If a certified laboratory analyzes a compliance sample for a supplier of water, the certified laboratory shall report the results to both the Department and to the supplier of water or his or her designated representative within the periods set forth in 40 C.F.R. 141.31, except that electronic reporting conducted in accordance with 40 C.F.R. 141.31(a) shall be completed within seven days of completion of the analysis. The laboratory reporting to the Department shall include analytical results for any maximum contaminant level exceedance within the timeframes applicable to the system owner. Reporting shall be in a format, including electronic reporting, established by the Department and shall be filled out completely. If a certified laboratory fails to report compliance sample results in accordance with this Paragraph, the supplier of water shall report results to the Department as required by this Rule.

History Note: Authority G.S. 130A-315; 130A-324; 130A-329; 40 C.F.R. 141;

Eff. September 1, 1979;

Amended Eff. February 1, 1987; October 1, 1984; March 31, 1981; March 31, 1980;

Transferred and Recodified from 10 NCAC 10D .1631 Eff. April 4, 1990;

Amended Eff. April 1, 2014; August 1, 2002; January 1, 1991;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;

Amended Eff. July 1, 2019.

15A NCAC 18C .1527 CERTIFIED LABORATORIES

(a) The provisions of 40 C.F.R. 141.28 are incorporated by reference, including subsequent amendments and editions, with the following exceptions:

- (1) laboratories analyzing samples pursuant to this Subchapter shall be certified for that analytical method by the State Laboratory of Public Health in the Department of Health and Human Services; and

- (2) measurements for alkalinity; bromide; fluoride calcium; daily chlorite samples at the entrance to the distribution system; conductivity; orthophosphate; pH; residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide; magnesium; silica; Specific Ultraviolet Absorbance (SUVA); temperature; Total Organic Carbon (TOC); and turbidity may be performed by any person who holds a valid certificate issued by the North Carolina Water Treatment Facility Operators Board of Certification (NCWTFBOC). Measurements may also be performed by a person who has been instructed in the measurement procedure by a person who holds a valid certificate issued by the NCWTFBOC or by a certified laboratory.

(b) Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;

Eff. September 1, 1979;

Amended Eff. March 31, 1981;

Transferred and Recodified from 10 NCAC 10D .1629 Eff. April 4, 1990;

Amended Eff. April 1, 1992; September 1, 1990;

Readopted Eff. July 1, 2019.

15A NCAC 18C .1528 ALTERNATE ANALYTICAL TECHNIQUES

The provisions of 40 C.F.R. 141.27 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;

Eff. September 1, 1979;

Amended Eff. March 31, 1981;

Transferred and Recodified from 10 NCAC 10D .1630 Eff. April 4, 1990;

Readopted Eff. July 1, 2019.

15A NCAC 18C .1529 POINT-OF-ENTRY, BOTTLED WATER, AND OTHER TREATMENT DEVICES

(a) The provisions of 40 C.F.R. 141 Subpart J – Use of Non-Centralized Treatment Devices are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

(b) Public water systems shall not use bottled water or point-of-use devices to achieve compliance with a maximum contaminant level. Bottled water or point-of-use devices may be used on a temporary basis until compliance with the maximum contaminant level is achieved.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;

Eff. June 1, 1988;

Transferred and Recodified from 10 NCAC 10D .1641 Eff. April 4, 1990;
Amended Eff. September 1, 1990;
Readopted Eff. July 1, 2019.

15A NCAC 18C .1532 VARIANCES AND EXEMPTIONS

The provisions of 40 C.F.R. 141.4 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141;
Eff. September 1, 1979;
Transferred and Recodified from 10 NCAC 10D .1634 Eff. April 4, 1990;
Amended Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;
Amended Eff. July 1, 2019.

15A NCAC 18C .1535 MAXIMUM CONTAMINANT LEVELS FOR COLIFORM BACTERIA

(a) The provisions of 40 C.F.R. 141.63 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.
 (b) The provisions of 40 C.F.R. 141.52 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.52; 40 C.F.R. 141.63;
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;
Amended Eff. July 1, 2019.

15A NCAC 18C .1537 DRINKING WATER TREATMENT CHEMICALS AND SYSTEM COMPONENTS

(a) The standards established by the American National Standards Institute/NSF International, codified as ANSI/NSF Standard 60 and ANSI/NSF Standard 61, are incorporated by reference including subsequent amendments and editions. ANSI/NSF Standard 60 applies to drinking water treatment chemicals. ANSI/NSF Standard 61 applies to drinking water system components. Copies may be obtained for public inspection as set forth in Rule .0503 of this Subchapter.
 (b) A water supply product used in a public water system shall meet the standards incorporated by reference in Paragraph (a) of this Rule. A product certified by an organization having a third-party certification program accredited by the American National Standards Institute to test and certify such products may be used in a public water system.
 (c) A supplier of water shall maintain a list of all water supply products used in a public water system for inspection by the Department. Prior to using a product not previously listed, a supplier of water shall either determine the product is certified as

required by Paragraph (b) of this Rule or notify the Department of the type, name, and manufacturer of a product.
 (d) A supplier of water shall not introduce or permit the introduction of a water supply product into a public water system that does not meet the requirements of this Rule.

History Note: Authority G.S. 130A-315; P.L. 93-523;
Eff. July 1, 1994;
Amended Eff. April 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;
Amended Eff. July 1, 2019.

15A NCAC 18C .1538 CONSUMER CONFIDENCE REPORT

The provisions of 40 C.F.R. 141, Subpart O - Consumer Confidence Reports are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-313; 130A-315; P.L. 93-523; 40 C.F.R. 141;
Eff. August 1, 2000;
Amended Eff. April 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;
Amended Eff. July 1, 2019.

15A NCAC 18C .1804 NOTICE

(a) A local approval program shall submit an annual notice to the Department, identifying each approval of construction or alteration of the distribution system of a community water system. The local approval program shall retain a copy of the application and approved engineering plans and shall provide a copy to the Department upon request.
 (b) The local approval program shall provide notice to the department within 10 days of any change in staff, budget, or other resources that may affect the program's ability to carry out the plan review program.
 (c) Upon completion of the construction or alteration of the distribution system, the applicant shall submit a statement to the local approval program, signed by a registered professional engineer, stating that construction was completed in accordance with approved plans and specifications and revised only in accordance with 15A NCAC 18C .0306. The statement shall be based upon observations during and upon completion of construction by the engineer or a representative of the engineer's office who is supervised by the engineer. The local approval program shall provide a copy of the statement to the Department upon request.

History Note: Authority G.S. 130A-317; 1985 S.L., c. 697, s. 3;
Eff. January 1, 1986;
Amended Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;
Amended Eff. July 1, 2019.

15A NCAC 18C .2001 GENERAL REQUIREMENTS

The provisions of 40 C.F.R. 141.70 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.70;

Eff. January 1, 1991;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;

Amended Eff. July 1, 2019.

15A NCAC 18C .2002 DISINFECTION

(a) The provisions of 40 C.F.R. 141.72 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter. These provisions are adopted with the following exceptions:

- (1) Water entering the distribution system. In 40 C.F.R. 141.72 (a)(2), (a)(3), and (b)(2), "0.2 mg/l" of residual disinfectant concentration shall be replaced with "0.2 mg/l measured as free chlorine when chlorine is the only applied disinfectant and 1.0 mg/l measured as total chlorine when ammonia and chlorine are applied disinfectants."
- (2) Water in the distribution system at coliform sampling sites. In 40 C.F.R. 141.72(a)(4) and (b)(3), "undetectable" shall be replaced with "less than 0.2 mg/l measured as free chlorine when chlorine is the only applied disinfectant and less than 1.0 mg/l measured as total chlorine when ammonia and chlorine are applied disinfectants."

(b) Water in the distribution system at maximum residence time sites. For samples collected at maximum residence time sites or at other locations with high water age as required by Rule .1302(a)(2) of this Subchapter, residual disinfectant concentrations shall be at detectable levels as set forth and calculated in 40 C.F.R. 141.72(a)(4) and (b)(3).

(c) All surface water treatment facilities shall include chemical disinfection for a minimum 0.5 log Giardia inactivation.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.72;

Eff. January 1, 1991;

Amended Eff. April 1, 2014; October 1, 2009;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;

Amended Eff. July 1, 2019.

15A NCAC 18C .2005 CRITERIA FOR AVOIDING FILTRATION

The provisions of 40 C.F.R. 141.71 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.71;

Eff. January 1, 1991;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;
Amended Eff. July 1, 2019.

15A NCAC 18C .2008 DISINFECTANTS AND DISINFECTION BYPRODUCTS

(a) The provisions of 40 C.F.R. 141.53 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

(b) The provisions of 40 C.F.R. 141.54 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

(c) The provisions of 40 C.F.R. 141.64 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

(d) The provisions of 40 C.F.R. 141.65 are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

(e) The provisions of 40 C.F.R. 141, Subpart L- Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors, and the provisions of 40 C.F.R. 141, Subparts U- Initial Distribution System Evaluations and Subpart V - Stage 2 Disinfection Byproducts Requirements are incorporated by reference, including subsequent amendments and editions. Copies may be obtained as set forth in Rule .0102(b) of this Subchapter.

History Note: Authority G.S. 130A-313; 130A-315; P.L. 93-525; 40 C.F.R. 141;

Eff. August 1, 2000;

Amended Eff. April 1, 2014; October 1, 2009; August 1, 2002;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015;

Amended Eff. July 1, 2019.

TITLE 19A - DEPARTMENT OF TRANSPORTATION**19A NCAC 02D .0404 MAINTENANCE WITHIN MUNICIPALITIES**

(a) The definitions set forth in this Paragraph shall apply to this Rule.

- (1) "Board" means the Board of Transportation.
- (2) "Cross pipe lines" means pipe lines under the roadway surface, designed to convey water from one side of a street or highway to the other.
- (3) "Maintenance" means routine care or upkeep to keep roads, streets, or highways in the existing condition and with the existing traffic carrying capacity.
- (4) "Municipality" means an incorporated city or town within the State of North Carolina.
- (5) "Non-State municipal street" or "Non-State system municipal highway" (municipal system) mean any street or highway accepted by the municipality that is not a part of the State highway system.
- (6) "Open drainage" means drainage systems utilizing open side ditches, tail, lateral and

outfall ditches to convey surface water to outfall streams.

- (7) "Pavement" means the paved portion of streets, including paved shoulders and on-street parking areas, but not including sidewalks and driveways.
- (8) "Rural highway" or "Rural street" means a highway or street on the State highway system outside the limits of a municipality.
- (9) "Shoulder" means earthen, soil, clay, gravel or turf section of pavement support extending from outer pavement edge to the bottom of side ditch, including shoulder sections which are paved.
- (10) "Sidewalk" means paved walkway, parallel to streets or highways.
- (11) The State highway system includes those streets and highways as described in G.S. 136-45.
- (12) "State municipal system street" or "State municipal street highway" mean any street or highway on the State highway system within a municipality.
- (13) "Storm drainage" or "Storm sewers" mean a system of underground pipes, culverts, conduits, or tunnels, including drop inlets and catch basins, designed to convey water from surface areas to eventual disposal into outfall streams.

(b) Responsibilities.

- (1) The Department shall patch and resurface pavement.
- (2) The municipality shall repair pavement cuts made for utility repair or other purposes under the control of the municipality. The Division of Highways District Engineer, or the District Engineer's designated representative shall be notified in writing 48 hours in advance of any pavement cut and approval must be obtained prior to making the cut. Pavement cuts due to emergencies may proceed as necessary with the Division of Highways District Engineer, or the District Engineer's designated representative being notified as soon as possible after the emergency is discovered and the pavement cut is made or anticipated.
- (3) If the maintenance of any State highway system street is performed by the municipality, then it shall be the responsibility of the municipality, subject to the approval and direction of the Department, to install and maintain signs, barricades, and other safety devices of like nature, and to furnish flagmen when necessary; all shall be performed in accordance with G.S. 136-130.
- (4) An encroachment agreement is required for the initial installation of any utility on the State highway system right-of-way by the municipality as well as by utility companies and individuals.

(5) Drainage.

- (A) The maintenance of roadway ditches including median drainage, where applicable, and cross drainage pipes, outfalls, and structures shall be the responsibility of Department within the highway right-of-way or within a drainage easement area.
- (B) The maintenance of storm drainage and storm sewer systems draining State highway system streets within the highway right-of-way or within a drainage easement area shall be the responsibility of the Department. Where systems draining State highway system streets are enlarged and expanded to accommodate drainage from municipal streets, the initial cost and the maintenance cost shall be borne jointly by agreement.
- (C) Attachments to drainage structures shall require the written approval of the Department prior to any utility or other attachment being made to any bridge or structure on the State highway system. Approval shall be required before turning any utility under or through a bridge or drainage structure on the State highway system. Approval is obtained through an encroachment agreement and dependent upon the complexity of the attachment.

(6) The maintenance of sidewalks is a municipal responsibility.

(7) Roadside Maintenance.

- (A) All planting, plant maintenance, mowing, erosion control, and litter pickup on freeways, interstate, and other controlled access highways shall be the responsibility of the Department, except as otherwise provided by this Rule.
- (B) Non-controlled Access Surface Streets
 - (i) Erosion control, machine mowing, litter pickup, and the maintenance of trees over the entire width of right-of-way without sidewalk or pedestrian space, paved or unpaved, shall be the responsibility of the Department. Maintenance of shrubs or other planting over the entire width of right-of-way without sidewalk or pedestrian space, paved or unpaved, shall be the responsibility of the

- Department subject to the provision providing for specific planting projects as outlined in Part (7)(C) of this Paragraph.
- (ii) The Department shall be responsible for the maintenance of the area outside of the curbs or within and beyond the sidewalk or pedestrian space, paved or unpaved. These areas are used almost exclusively for pedestrians, and the maintenance of such areas shall be the responsibility of the municipality.
 - (C) Should the municipality desire more extensive planting than is provided by the Department, a plan for such proposed planting shall be submitted to the Department and considered a construction or improvement item. An individual permit and agreement on Department and municipal responsibilities for planting and plant maintenance shall be required in each instance, covering not only financial responsibility but also the furnishing of personnel, equipment and materials for performing plant maintenance and associated hand mowing operations.
 - (D) Civic organizations desiring to provide more extensive planting of trees and shrubs in the municipality on Department right-of-way than is provided by the Department shall handle negotiations through the municipality as outlined in Part (7)(C) of this Paragraph.
- (8) Snow and Ice Control.
- (A) The responsibility for clearing State highway system streets shall be the responsibility of the Department; however, municipalities may, with the concurrence of the Division Engineer, execute an agreement with the Department providing for reimbursement by the Department to the municipality for the assumption of this responsibility.
 - (B) The removal of snow from sidewalk areas shall not be the responsibility of the Department.
- (9) The Department shall maintain, repair, and replace guard rail on the State highway system streets and highways.
- (10) Street Lighting.
- (A) The Department shall maintain street lighting on freeways, interstate systems, and other controlled access highways if determined to be for public safety.
 - (B) The maintenance and the electric current for lighting systems on streets or highways other than as referred to in Part (10)(A) of this Paragraph shall be the responsibility of the municipality, unless otherwise provided for by specific agreement.
 - (C) The installation of street lighting systems by the municipality on State highway system streets within the right-of-way may be allowed by the Department by encroachment agreement only.
- (11) The Department and the municipality shall ensure that traffic lanes are kept open. In the event that any traffic lanes are blocked for any reason, the Department and the municipality shall ensure that the blockage is signed or flagged.

History Note: Authority G.S. 136-66.1; 136-93; 143B-346; Eff. July 1, 1978; Amended Eff. November 1, 1993; Readopted Eff. July 1, 2019.

19A NCAC 02D .0406 CONSTRUCTION AND MAINTENANCE OF SIDEWALKS

- (a) The Department shall replace any sidewalk torn up as a result of a highway construction project having to do with the widening of an existing street.
- (b) The Department shall evaluate the need for proposed sidewalks in the planning stage of a project. The Department shall assess information provided by the local government, Transportation Advisory Committee, and Departmental engineering studies.
- (c) The execution of a pedestrian facilities maintenance agreement specifying responsibility for long term maintenance shall be required prior to construction for a proposed sidewalk.

History Note: Authority G.S. 136-66.1; 143B-346; 23 U.S.C. 133; 23 U.S.C. 217; Eff. July 1, 1978; Amended Eff. May 1, 1999; December 29, 1993; Readopted Eff. July 1, 2019.

19A NCAC 02D .0601 PERMIT APPLICATION AND ADMINISTRATION

- (a) The Chief Engineer's office shall be responsible for issuing oversize/overweight permits as provided by this Section.
- (b) House move permit applications shall be submitted to the Department division and district offices. The Department's division and district offices shall approve or deny house move permit applications based on safety considerations after reviewing the route of travel and dimensions of the structure to be moved. House move permit applications shall be submitted at least two

working days prior to the anticipated date of movement. House move permit applications shall contain the following information:

- (1) applicant's name and contact information;
- (2) housemover license and truck license numbers;
- (3) registered weight, serial number, and number of axles;
- (4) description of the load dimensions
- (5) extreme axle measurements, axle weights, and spacings;
- (6) house construction descriptions
- (7) requested route of travel descriptions; and
- (8) travel plan and anticipated use of escort vehicle.

(c) Superload permits shall be required for the movement of a vehicle and vehicle combination with a gross weight of 132,000 pounds or more; width of 15 feet or more; a mobile or modular unit with a width of 16 feet and a gutter edge of 3 inches; and a width of 16 feet and 11 inches, unless the permit is for house moves in accordance with Paragraph (b) of this Rule. Applicants for Superload permits shall submit a written application, the fee specified in G.S. 20-119(b), and documentation of any variance to the Central Permit Office at least 10 business days prior to the anticipated date of movement. Superload permits applications shall contain the following information:

- (1) applicant's name and contact information;
- (2) truck and trailer license information and VIN number;
- (3) gross weight, registered weight, extreme wheelbase measurements, and number of axles;
- (4) description of the load dimensions; and
- (5) description of axle spacings and weight.

(d) Applicants shall submit a written application, the fee specified in G.S. 20-119(b), and documentation of variances to the Central Permit Office at least two business days prior to the anticipated date of movement of a vehicle or vehicle combination of a height greater than 14 feet, but not equal to or greater than 15 feet.

(e) The issuance of any permit shall not imply nor guarantee the vertical clearance of the permitted load and the permittee shall be responsible for ensuring all vertical clearances prior to movement.

(f) The Department shall accept certified check, money order, company check, or credit card in consideration for the fees specified in G.S. 20-119(b). No personal checks shall be accepted.

History Note: Authority G.S. 20-119; 20-360; 20-361; 20-367; 20-369; 20-371; 136-18(5); 143B-346; Eff. July 1, 1978;

Amended Eff. November 1, 1993; October 1, 1991;

Temporary Amendment Eff. January 10, 2002; October 1, 2000;

Amended Eff. December 1, 2012; April 1, 2009; August 1, 2002;

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

Amended Eff. July 1, 2019.

19A NCAC 02D .0602 PERMITS – ISSUANCE REQUIREMENTS

(a) The following are general issuance requirements for oversize/overweight permits.

- (1) Permits shall be issued by the Department. The maximum weight permitted on a designated route shall be determined by the bridge capacity

of the bridges to be crossed during movement. Movements exceeding weight limits for highways or bridge structures shall be denied if considered by the Department to be unsafe or if the movement may cause damage to the highway or bridge structures. If the Department determines that the permitted movement may cause damage to the highway, bridge structures, or any other State property, the permittee shall be required to obtain a surety bond to cover the estimated cost of damages. A permit issued by the Department shall not be valid for travel over municipal streets, defined as streets or highways not maintained by the State of North Carolina.

(2) Prior to applying for an oversize/overweight permit, the applicant shall be responsible for reducing and loading the item, commodity, or combinations thereof to the least possible dimensions and weight. Permits may be issued in accordance with this Section for movements of items or commodities that cannot be loaded, divided, dismantled, or disassembled to meet legal requirements.

(3) One item or commodity shall qualify for overweight considerations. Multiple items or commodities shall not qualify for an overweight permit.

(4) One item or commodity or multiple items or commodities loaded in-line shall qualify for overwidth considerations. If loaded side-by-side, multiple items or commodities shall not exceed eight feet, six inches in width.

(5) One item or commodity of continuous length shall qualify for overlength considerations. The maximum length for a vehicle or vehicle combination shall be 105 feet. Approval may be given by the Central Permit Office for permitted loads in excess of 105 feet after review of the geographic route of travel, consideration of local construction projects, and evaluation of the other dimensions of the load.

(6) One item or commodity shall qualify for overheight considerations. If piled or stacked, multiple items or commodities shall not exceed 13 feet, 6 inches.

(b) Annual Trip Permits

(1) Annual permits shall be valid for 12 months from the effective date of the permit. Annual trip permits shall require an escort for vehicle and vehicle combinations that exceed 12 feet in width.

(2) Annual permits may be issued for unlimited movement on all North Carolina highways, as permitted by the posted road and bridge limits, and without the requirement of an escort for the following:

- (A) vehicle and vehicle combinations transporting non-divisible commodities;
 - (B) vehicle and vehicle combinations transporting a non-divisible commodity with a minimum extreme wheelbase of 51 feet;
 - (C) self-propelled equipment with four or five axles; and
 - (D) non-property hauling vehicles with permanently attached equipment, a minimum wheel base of 30 feet, the capability of traveling at highway speeds of 45 miles per hour, the operational purpose of traveling to and from a non-highway job, and a special mobile equipment license issued by the Division of Motor Vehicles.
- (3) Dimensions for vehicle and vehicle combination permits issued pursuant to Subparagraph 2 of this Paragraph shall not exceed:
- (A) a width of 12 feet;
 - (B) a height of 13 feet, 6 inches; and
 - (C) a length of 105 feet.
 - (D) Part (2)(A) within this Paragraph shall not exceed the length as set forth in G.S. 20-115.1(b) and G.S. 20-116(e), and gross weights and axle weights as set forth in G.S. 20-118(b)(1)(2)(3).
 - (E) Parts (2)(B), (C), and (D) within this Paragraph shall not exceed a gross weight of 90,000 pounds, and axle weights of 20,000 pounds for steer axle, 25,000 pounds for single axle, 50,000 pounds for tandem axle, 60,000 pounds for tridem axle, and 68,000 pounds for axle groupings of four or more.
- (4) Annual permits may be issued for unlimited movement on all North Carolina highways, as permitted by the posted road and bridge limits, and with the requirement of an escort for vehicles and vehicle combinations transporting farm equipment. Dimensions for vehicle and vehicle combination permits issued pursuant to this Subparagraph shall not exceed:
- (A) a width of 14 feet;
 - (B) a height of 13 feet, 6 inches; and
 - (C) a weight as set forth in G.S. 20-118(b)(3).
- (5) Annual permits may be issued with the requirement of an escort for mobile or modular homes if transported from a manufacturer to a North Carolina mobile or modular home dealership, or if transported from a North Carolina licensed mobile or modular home retail dealer to the transporter for the delivery of mobile or modular homes. Permitted mobile or modular homes shall be authorized to travel on designated routes approved by the Department considering construction work zones, highway lane widths, origin and destination, and other factors to ensure safe movement. Dimensions for vehicle and vehicle combination permits issued under this subparagraph shall not exceed:
- (A) a width of 14 feet;
 - (B) a roof overhang of 12 inches, unless the unit width shall be 16 feet, in which case the gutter edge shall not exceed 3 inches;
 - (C) a height of 13 feet, 6 inches; and
 - (D) a weight as set forth in G.S. 20-118(b)(3).
- (c) Single Trip Permits
- (1) Single trip permits shall be issued to the registered owner of the vehicle and valid for 10 calendar days for a single, one-way trip. Single trip permit applications shall include the exact origin, route, and exact destination, including applicable county and state road numbers and routes. A return trip shall only be considered for a single trip permit if the return trip is requested within the original permit application. No single trip permit shall be issued for a time period that exceeds 30 days.
 - (2) Single trip permits for vehicle and vehicle combinations with non-divisible overweight loads are limited to a maximum width of 15 feet and the conditions specified in this Rule.
 - (3) Single trip permits shall not be restricted by overall length limitations, except the total combination length of mobile homes shall not exceed 105 feet.
 - (4) Single trip permits shall not authorize a vehicle or vehicle combination height in excess of the vertical clearances on the authorized route.
- (d) Non-divisible Loads
- (1) The maximum single trip and annual permit weight allowed for a vehicle or vehicle combination, not including off-highway construction equipment, shall be:
 - (A) 20,000 pounds for steer axles;
 - (B) 25,000 pounds for single axles;
 - (C) 50,000 pounds for tandem axles;
 - (D) 60,000 pounds for tridem axles;
 - (E) 68,000 pounds for axle groupings of four or more; and
 - (F) an engineering study is required for axle groupings of five or more that exceed 68,000 pounds.
 - (2) The maximum single trip and annual permit gross weight allowed for a vehicle or vehicle combination, not including off-highway construction equipment, shall be:
 - (A) 70,000 pounds for a three-axle single vehicle;

- (B) 90,000 pounds for a four-axle single vehicle;
 - (C) 94,500 pounds for a five-axle single vehicle;
 - (D) 112,000 pounds for a five-axle vehicle combination;
 - (E) 108,000 pounds for a six-axle single vehicle;
 - (F) 120,000 pounds for a six-axle vehicle combination;
 - (G) 122,000 pounds for a seven-axle single vehicle;
 - (H) 132,000 pounds for a seven-axle vehicle combination; and
 - (I) determined upon the completion of an engineering study for axle-vehicle combinations of 7 or more if their gross weight exceeds 132,000 pounds.
- (3) The maximum permit weight allowed for self-propelled off-highway construction equipment with low pressure or low flotation tires shall be:
- (A) 37,000 pounds for a single-axle vehicle; and
 - (B) 50,000 pounds for a tandem-axle vehicle;
- (4) The maximum permit gross weight allowed for self-propelled off-highway construction equipment with low pressure or low flotation tires shall be:
- (A) 70,000 pounds for a two-axle single vehicle;
 - (B) 80,000 pounds for a three-axle single vehicle; and
 - (C) 90,000 pounds for a four-axle single vehicle.
- (5) An overweight permit with a specified route shall be available for a vehicle combination consisting of a power unit and trailer hauling a sealed ship container. No permit shall be issued in accordance with this Subparagraph unless the vehicle combination shall be:
- (A) traveling to or from a designated seaport, whether in-state or out-of-state;
 - (B) transported by marine shipment;
 - (C) licensed for the maximum allowable weight for the 51-foot extreme wheelbase measurement as specified in G.S. 20-118;
 - (D) equal to or less than the maximum width, height, and length dimensions as specified in G.S. 20-116;
 - (E) a vehicle combination with at least five axles; and
 - (F) in possession of and able to furnish for inspection the documentation of the sealed commodity being transported.

(e) Superload Permits

(1) Superload permits shall be available for vehicle or vehicle combinations with axles or axle groupings that exceed the weight limitations provided by this Rule, a gross weight that exceeds 132,000 pounds, or a maximum width in excess of 15 feet. The Chief Engineer or the Chief Engineer's designee may authorize the issuance of a superload permit after analysis of the proposed load and evaluation of the proposed route of travel.

(2) Superload permits shall be issued to the registered owner of the vehicle and valid for 10 calendar days for a single, one-way trip. Superload permit applications shall include the exact origin, route, and exact destination, including applicable county and state road numbers or routes. A separate permit application shall be required for return trips.

(f) Houses

(1) Applications for permits to move buildings or structures in excess of 15 feet in width shall be made by a licensed housemover. Housemover license applications and supporting documentation are issued and renewed by the Central Permit Office. Please see 19A NCAC 02D .0601 for information on Housemover permits.

(2) An individual shall not be required to acquire a housemover license prior to applying for a permit if the power unit and building is owned by the permittee and the movement is from property individually owned by the permittee.

(g) Mobile or Modular Homes

(1) Mobile or modular home units shall not exceed a length of 76 feet and the total vehicle combination length shall not exceed 105 feet.

(2) A 14-foot-wide mobile or modular home unit may be transported with a bay window, room extension, or porch if the protrusion does not extend beyond the maximum roof overhang of 12 inches or the total width of overhang on the applicable side of the home. An extender shall be placed on the front and rear of the mobile or modular home with a length to extend horizontally equal to but not beyond the outermost edge of the mobile or modular home's extension. The extenders shall have retro-reflective sheeting, sized at a minimum of 4 inches, that shall be Type III high intensity, encapsulated lens, or Type IV-high performance, prismatic, with alternating fluorescent yellow and black diagonal stripes that slope towards the outside of the home with a minimum area of 288 square inches. The bottom of the extenders shall be 6 feet to 8 feet above the road surface. The top of each extender shall have mounted a 5-inch, amber-colored, flashing beacon.

- (3) The North Carolina licensed mobile or modular home retail dealer shall maintain records of all mobile or modular units moved by authority of an annual permit for a minimum of four years from the date of movement. The records shall be available for inspection and audit by any officer, employee, or contractor of the North Carolina Division of Motor Vehicles. Failure to comply with any requirement shall be grounds for denying, suspending, or revoking Manufacturer's License, Dealer's License, and any North Carolina oversize/overweight permit privileges.

History Note: Authority G.S. 20-119; 20-360; 20-361; 20-367; 20-369; 20-371; 136-18(5); 143B-346; Eff. July 1, 1978; Amended Eff. December 29, 1993; October 1, 1991; April 1, 1984; April 11, 1980; Filed as a Temporary Rule Eff. October 1, 2000; Amended Eff. August 1, 2002; Readopted Eff. July 1, 2019.

19A NCAC 02D .0607 PERMITS – MOVEMENT AND TRAVEL REQUIREMENTS

(a) All vehicles and vehicle combinations described in 19A NCAC 02D .0601 and .0602 shall adhere to the following movement requirements.

- (1) Unless otherwise authorized or restricted by this Rule, movement shall be made between sunrise and sunset. Movement of 16-foot wide mobile or modular home units with a maximum of 3-inch gutter edge shall be permitted Monday through Saturday from 9:00 am to 2:30 pm. Movement of 16-foot wide mobile or modular home unit with a maximum 3-inch gutter edge may occur after 2:30 pm, but not beyond sunset, if the unit is traveling on an approved route as determined by an engineering study, and exported out-of-state. Sunday travel may be authorized from sunrise to sunset after consideration of the vehicle or vehicle combination dimensions. Considerations of safety and traffic flow may require the issuing office to impose additional time restrictions or allowances.
- (2) No movement shall be permitted for a vehicle or vehicle combination after 12:00 p.m. on the weekday preceding and until 12:00 p.m. on the weekday following Independence Day, Thanksgiving Day, and Christmas Day. If Independence Day, Thanksgiving Day, or Christmas Day fall on a Saturday or Sunday, travel is restricted from 12:00 p.m. on the preceding Friday until 12:00 p.m. on the following Monday.
- (3) Continuous travel occurring 24 hours a day, each day per year, shall not be authorized for vehicle or vehicle combinations with a gross

weight in excess of 112,000 pounds. Self-propelled equipment shall be authorized for continuous travel if the overhang is less than 10 feet in length and meets all other requirements of this Subparagraph. The overhang shall be marked on both sides and end with high-intensity, glass-bead, retro-reflective sheeting tape. Each side of the self-propelled equipment shall be marked 24 inches from the road surface at the nearest feasible center point, between the steer and drive axles. The sheeting tape shall be 2 inches by 12 inches. Any rear overhang shall display a mounted brake light and flashing amber light, 8 inches in diameter with a minimum candlepower of 800 watts.

- (4) Permitted vehicles owned or leased by the same company or permitted vehicles originating at the same location shall travel no less than two miles apart. Convoy travel shall not be authorized except as directed by law enforcement escort or permit office.
- (5) Blades of construction equipment and front-end loader buckets shall not extend more than 14 feet across the roadway. A blade, bucket, or other attachment that is an original part of the manufactured equipment may be removed and hauled with the equipment without being considered a divisible load.
- (6) Permitted vehicle or vehicle combination movements shall not travel at a speed in excess of the posted speed limit. The issuing office shall be permitted to impose speed restrictions below the posted speed limit considering safety and load. A towing unit and mobile or modular home combination shall not exceed a maximum speed of 60 miles per hour. The driver of the permitted vehicle shall avoid creating traffic congestion by relinquishing the traffic way when a buildup of traffic occurs.
- (7) The object to be transported shall not be loaded or parked on the highway right of way without permission from the office that originally issued the permit and after confirmation of an emergency condition, such as mechanical problems or weather events.
- (8) No movements shall be made when visibility is less than 500 feet. Moves shall not be made when travel conditions are considered unsafe by the Division of Highways, State Highway Patrol, or other law enforcement officers having jurisdiction. Movement of a mobile or modular unit that exceed a width of 10 feet shall be prohibited if wind speed gusts are in excess of 25 miles per hour.
- (9) The mover shall be responsible for any expenses, arrangements, or approvals associated with removing or replacing any obstructions, including traffic signals, signs, and utility lines. Trees, shrubs, or State signs

shall not be cut, trimmed, or removed without approval from the Division of Highways District Engineer having jurisdiction over the area involved. In determining whether to grant approval for cutting or trimming trees or shrubs, the District Engineer shall consider the species, age, and appearance of the tree or shrub in question and its contribution to the aesthetics of the area.

(b) Movement of all vehicles and vehicle combinations subject to this Section shall adhere to the following safety requirements.

- (1) A yellow banner measuring a total length of 7 feet x 18 inches high bearing the legend "Oversize Load" in 10-inch black letters 1.5-inch-wide brush stroke shall be displayed in one or two pieces totaling the required length on the front and rear bumpers of a permitted vehicle and vehicle combination with a width greater than 10 feet. A towing unit mobile or modular home combination shall display banners of the size specified bearing the legend "Oversize --- - feet Load" identifying the actual width of the unit in transport. Escort vehicles shall display banners as specified in this Subparagraph with the exception of length to extend the entire width of the bumpers.
- (2) Red or orange flags measuring 18 inches square shall be displayed on all sides at the widest point of load for all loads in excess of 8 feet 6 inches wide, but the flags shall be mounted so as not to increase the overall width of the load.
- (3) All permitted vehicles and vehicle combinations shall be equipped with tires, axles and brakes in accordance with North Carolina Statutes and Motor Carrier and Housing and Urban Development (HUD) regulations.
- (4) Rear view mirrors and other safety devices on towing units attached for movement of overwidth loads shall be removed or retracted to conform with legal width when unit is not towing or hauling such vehicle or load.
- (5) Flashing amber lights shall be used as determined by the issuing permit office.

History Note: Authority G.S. 20-116; 20-118; 20-119; 136-18(5);

Eff. July 1, 1978;

Amended Eff. October 1, 1994; December 29, 1993; October 1, 1991; October 1, 1990;

Temporary Amendment Eff. January 10, 2002; December 31, 2000; October 1, 2000;

Amended Eff. August 1, 2012; June 1, 2010; April 1, 2009; August 1, 2002;

Readopted Eff. July 1, 2019.

19A NCAC 02D .0612 PERMITS - HOUSE MOVES

History Note: Authority G.S. 20-119; 20-360; 136-18(5); 150B-21.3A;

Eff. July 1, 1978;

Amended Eff. November 1, 1993; October 1, 1991; April 1, 1984; January 1, 1979;

Filed as a Temporary Rule Eff. October 1, 2000;

Amended Eff. August 1, 2002;

Repealed Eff. July 1, 2019.

19A NCAC 02D .0633 PERMITS – DECISIONS, APPEALS, AND ENFORCEMENT

(a) A permit that is revoked or voided by the Chief Engineer's office shall be surrendered without any refund of fees. An oversize or overweight permit application may be denied for a period of up to six months upon written documentation that the applicant operated in violation of any of the rules contained in this Section, or any state or local law or any rule or ordinance regulating the operation of oversize or overweight vehicles. Repeated violations may result in a permanent denial of the right to use State highway system for transportation of oversize/overweight loads or vehicles. An oversize/overweight permit may be revoked and considered void by the Chief Engineer's office upon inspection and written documentation that the permittee:

- (1) violated either the terms and conditions of the permit, state or local laws, or ordinances regulating the operation of oversize and overweight vehicles;
- (2) misrepresented, fraudulently obtained, altered, or used in an unauthorized manner any information on the permit application; and
- (3) operated or is currently operating a vehicle or vehicle combination in violation of the General Statutes of North Carolina, these rules, the authorized route of travel, time of movement, escort requirements, axle weights, number of axles, or any other conditions of the permit.

(b) No permit application shall be denied, renewal refused, permit revoked, or considered void unless the Chief Engineer's office provides verbal or written notice to the permittee. The permittee may appeal in writing to the Chief Engineer's office within 10 business days of the permittee receiving notice. If a hearing is requested, the Chief Engineer's office shall provide the permittee with written notice, sent by certified mail, return receipt requested, no fewer than 10 business days prior to the scheduled date of the hearing. The Chief Engineer's office shall provide to the permittee a written decision, sent by certified mail, return receipt requested, within 10 business days from the date of the hearing.

(c) A permittee who has permit privileges suspended or revoked by the Chief Engineer's office may make a written appeal to the Secretary of Transportation within 15 days following the date listed on the return receipt. The Secretary of Transportation or the Secretary's designee may affirm or set aside the suspension or revocation based on a review of the written appeal, the suspension or revocation decision, as well as any available documents, exhibits or other evidence bearing on the appeal. The individual appealing shall be advised of the final disposition of the action within 21 days following receipt of the appeal.

(d) The following pertains to enforcement, inspections, and alternate routes as set out in this Rule.

- (1) Law enforcement officers may perform on-site inspections at the point of manufacture or dealer lot for mobile or modular homes ready for shipment. Notification of violations shall be submitted by enforcement personnel to the Central Permit Office.
- (2) Irrespective of the route shown on the permit, a permitted vehicle shall travel an alternate route if:
 - (A) directed by a law enforcement officer with jurisdiction;
 - (B) directed to follow a specific route, for weighing purposes, by an official traffic control device; or
 - (C) the specified route on the permit is detoured by an officially erected highway sign, traffic control devices, or law enforcement officer. If the specified route on the permit is detoured by an officially erected highway sign, traffic control device, or law enforcement officer, the driver of the permitted vehicle shall contact the Central Permit Office or the issuing field office for house move permits for clearance of route or revision of the permit.

(b) Any person seeking to be certified as an oversize/overweight load escort vehicle operator in North Carolina shall submit an application to the Department and attach a State certified copy of their driving record. The application shall contain the applicant's name and contact information; driver's license number and state; physical and demographic identification information; school name, location, and date of class; and Social Security number if the applicant is applying with an out-of-state driver's license. Any person seeking to be certified as an oversize/overweight load escort vehicle operator shall be qualified as follows:

- (1) an escort certified by another state's approved program;
- (2) a North Carolina law enforcement officer; or
- (3) a person who:
 - (A) is at least 21 years of age or 18 years of age with a Class A commercial driver's license;
 - (B) possesses a valid driver's license without restrictions other than for the use of corrective lenses and shall not have received a citation in the previous 12 months for operating a vehicle in a reckless manner or driving while impaired;
 - (C) possesses and provides with their application documentation of their completion of a defensive driving course that has been approved by the National Safety Council; and
 - (D) has received a certification examination score of at least 75 percent after completing all eight classroom-hours of the North Carolina Department of Transportation Oversize/Overweight Load Escort Vehicle Operator Certification Program. The program is offered by the North Carolina Community College System.

(c) Upon completion of the requirements set forth in this Rule, the Department shall issue a certificate that provides recognition of completion of the escort vehicle operator certification program. The certificate shall be effective for four years from the issue date and reissued upon completion of a current escort certification program examination administered by Department training providers.

(d) An authorized operator's certification shall be revoked during its effective period upon any of the following occurrences:

- (1) failure to maintain a valid driver's license without restrictions other than for corrective lenses; or
- (2) failure to operate a motor vehicle safely as evidenced by receiving a conviction for operating a vehicle in a reckless manner, driving while impaired, or other evidence that the operator performed their escort duties in a manner likely to cause an accident, personal injury, or damage to property.

History Note: Authority G.S. 20-119; 20-360; 20-361; 20-367; 20-369; 20-371; 136-18(5); 143B-346;
Eff. July 1, 1978;
Amended Eff. November 1, 1993; October 1, 1991; April 1, 1984; April 11, 1980;
Temporary Rule Eff. October 1, 2000;
Amended Eff. December 1, 2012; April 1, 2009; August 1, 2002;
Readopted Eff. July 1, 2019.

19A NCAC 02D .0643 ESCORT VEHICLE DRIVER CERTIFICATION

When an escort vehicle is required, escort vehicle drivers shall be certified in accordance with 19A NCAC 02D .0644. Certification credentials shall be carried in the vehicle and shall be available for inspection by law enforcement officials with jurisdiction.

History Note: Authority G.S. 20-119;
Temporary Adoption Eff. March 11, 2002;
Eff. April 1, 2003;
Readopted Eff. July 1, 2019.

19A NCAC 02D .0644 OVERSIZE/OVERWEIGHT LOAD ESCORT VEHICLE OPERATOR CERTIFICATION PROGRAM

(a) Prior to obtaining certification as an oversize/overweight load escort vehicle operator, a person shall complete a program that provides instruction on escort skills and shall pass an examination. The escort vehicle operator certification program shall provide for reciprocity with other states having similar escort certification programs.

(e) If certification is revoked pursuant to this Rule, subsequent certification as an Escort Vehicle Operator shall require reapplication, satisfaction of program prerequisites, and requalification through the certification program.

(f) An individual who has had his or her certificate revoked may make written appeal within 15 days following notification of the adverse action to the Secretary of Transportation for review of the revocation. The Secretary may affirm or set aside the revocation based on a review of the written appeal, the revocation decision, as well as any available documents, exhibits, or other evidence bearing on the appeal. The individual appealing shall be advised of the final disposition within 21 days following receipt of the appeal.

(g) The Secretary of Transportation or the Secretary's designee shall only recognize certificates of other states if those programs meet State objectives as outlined in this Rule and G.S. 20-119.

History Note: Authority G.S. 20-119;
Temporary Adoption Eff. March 11, 2002;
Eff. April 1, 2003;
Amended Eff. April 1, 2009;
Readopted Eff. July 1, 2019.

19A NCAC 02E .0402 PILING OBSTRUCTIONS ON HIGHWAYS OR WITHIN RIGHT OF WAY

It shall be unlawful to pile, place, or leave, any trash, refuse, garbage, lumber, logs, cordwood, tree-laps, scrapped automobile, scrapped truck or part thereof, or any other material upon any road, highway, or shoulders thereof, within the right-of-way, or over the ditches or drainways of any road or highway of the State highway system.

History Note: Authority G.S. 136-18(5); 136-90;
Eff. July 1, 1978;
Readopted Eff. July 1, 2019.

19A NCAC 02E .0403 DEPOSITING MUD ON STATE HIGHWAYS

No person operating a vehicle with "dual wheels" or a vehicle equipped with four-wheel drive shall track mud onto any paved portion of any State highway so as to create a safety hazard to the traveling public.

History Note: Authority G.S. 136-18(5); 136-90;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Readopted Eff. July 1, 2019.

19A NCAC 02E .0404 HIGHWAY OBSTRUCTIONS INTERFERING WITH TRAFFIC/MAINTENANCE

(a) It shall be unlawful to place any highway obstruction, including, but not limited to, a driveway headwall, fence, rural mailbox, newspaper delivery box, or other roadside obstruction, so as to interfere with the traffic or maintenance of the roads and highways of the State highway system.

(b) If the Department determines that any highway obstruction, constitutes a roadside collision hazard, the highway obstruction shall be removed by the person or entity responsible for placing the obstruction within the right-of-way within 30 days of receipt

of written notice from the Department. Only mailboxes or newspaper delivery boxes with 4" x 4" wooden or small diameter metal posts shall be permitted on road additions made to the State highway system after May 3, 1990. If determined to be a roadside collision hazard, the location of any brick column, mailboxes, or newspaper delivery boxes, on rigid stands such as block, stone, or any other type of material, shall be prohibited within the State highway system right-of-way.

(c) If a person fails to remove the highway obstruction in accordance with Paragraph (b) of this Rule, the Division Engineer may take action to remove the obstruction and bill the responsible party for the expense.

History Note: Authority G.S. 136-18(5); 136-90;
Eff. July 1, 1978;
Amended Eff. November 1, 1993; October 1, 1991;
Readopted Eff. July 1, 2019.

19A NCAC 02E .0405 DAMAGE TO STATE HIGHWAY SYSTEM SURFACE OR SHOULDER

It shall be unlawful to move on, over, or across the surface or shoulder of any State highway system bridge, road, or highway, any object, tractor, engine, farm equipment, or vehicle of any kind that has wheels or objects attached that could cut, mutilate, or damage the surface or shoulder of any State highway system bridge, road, or highway without the written permission of the Chief Engineer's office. The Chief Engineer or the Chief Engineer's designee shall consider factors such as the ability of the road or bridge to handle the equipment without damage, planned protection of the roadway or bridge to prevent damage, planned traffic control and law enforcement assistance to safely move the equipment, and day and time of the planned move to evaluate potential disruptions to the traveling public.

History Note: Authority G.S. 20-115; 20-119; 136-18(5);
Eff. July 1, 1978;
Amended Eff. December 1, 2012;
Readopted Eff. July 1, 2019.

19A NCAC 02E .0406 VEHICLES SERVED BY SERVICE STATION

History Note: Authority G.S. 136-18(5); 136-90;
Eff. July 1, 1978;
Repealed Eff. July 1, 2019.

19A NCAC 02E .0407 CONTROL AND REGULATION OF ROADSIDE PARKS AND REST AREAS

(a) It shall be unlawful, within any scenic service overlook, rest area, or other designated parking area on the primary and secondary roads and highways of the State, for any person, firm, or corporation to erect tents, booths, or structures of any kind for camping or any other activity; to create, cause, or allow any unreasonably loud or disturbing noise; to solicit contributions, names, support, or for any other purpose, except as permitted pursuant to Section .0800 of this Subchapter to conduct or participate in public or private auctions and other ceremonies; to distribute tracts, pamphlets, favors or any material, product or literature; to erect displays, signs, or carry on any commercial

activity; to use public address such as loud speakers; to distribute or use alcoholic beverages; endanger the life, property, and welfare of the traveling public.

(b) For the purposes of this Rule, the following definitions apply.

- (1) "Unreasonably loud noise" means a noise which is incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace, order, or calm of the area, or which is obnoxious to, or unreasonably disturbing to, a person whose residence, work, or commercial enterprise is within a reasonable proximity to the point, place, or person from whom the noise is emanating, or emanated, and the noise is of such a kind, nature, duration, or extent that a reasonable person would consider the noise to be unreasonably loud or disturbing.
- (2) "Disturbing noise" means a noise which is perceived by a person of reasonable and ordinary firmness and sensibilities as interrupting the normal peace, order, and calm of such person, or persons, or tending to annoy, disturb, or frighten such persons in such proximity to the point, place, or person from whom the noise is emanating, or emanated.

History Note: Authority G.S. 136-18(9); 136-125;
Eff. July 1, 1978;
Amended Eff. October 1, 1991; August 1, 1986;
Readopted Eff. July 1, 2019.

19A NCAC 02E .0408 FISHING FROM BRIDGES

It shall be unlawful to fish from any bridge on any interstate or other controlled access highway.

History Note: Authority G.S. 136-18(5); 136-89.50; 153A-242; 160A-302.1;
Eff. July 1, 1978;
Readopted Eff. July 1, 2019.

19A NCAC 02E .0409 OPERATING NONMOTORIZED VEHICLES

Unless otherwise authorized by the Board of Transportation, it shall be unlawful for any person to ride any animal, or to operate a bicycle, horse drawn wagon, or any nonmotorized vehicle or moped on any interstate or controlled access highway.

History Note: Authority G.S. 136-18(5);
Eff. July 1, 1978;
Amended Eff. June 15, 1981;
Readopted Eff. July 1, 2019.

19A NCAC 02E .0410 HITCHHIKING ON INTERSTATE OR CONTROLLED ACCESS HIGHWAYS

(a) It shall be unlawful for any person to hitchhike or to solicit rides, or for the driver of any vehicle to stop for the purpose of picking up one who is hitchhiking or soliciting a ride, on any interstate or controlled access highway.

(b) This Rule shall not prohibit an operator or passengers in a vehicle stopped on a controlled access facility by reason of any emergency, mechanical failure, or other failure of the vehicle to operate, from requesting aid or soliciting a ride, nor does it prohibit the operator of any other vehicle from stopping to render aid or assistance and giving rides in such situations.

History Note: Authority G.S. 136-18(5); 136-89.50;
Eff. July 1, 1978;
Readopted Eff. July 1, 2019.

19A NCAC 02E .0411 JUMPING FROM BRIDGES

History Note: Authority G.S. 136-18(5); 150B-21.3A;
Eff. July 1, 1978;
Repealed Eff. July 1, 2019.

19A NCAC 02E .0423 REGULATION OF AIRPORT CONSTRUCTION

(a) Except as otherwise provided by this Rule, all construction or alteration of airports or aircraft landing areas on any part of land adjoining any public highway or in close proximity, shall be in conformity with the Federal Air Regulations, Title 14, Chapter I, Part 77, Subpart C, Code of Federal Regulations, which is incorporated by reference including any subsequent editions or amendments. Copies of these regulations are available at no cost to the public by visiting <https://www.govinfo.gov>. Close proximity, as referenced in this Paragraph, shall be assessed on a case-by-case basis according to the orientation of the landing area, and its respective alignment to the public highway.

(b) No construction or alteration as referenced in Paragraph (a) of this Rule shall be undertaken without having first obtained an Aircraft Landing Area Permit from the Department. An Aircraft Landing Area Permit shall be approved upon confirmation of satisfaction, by written documentation, of the clearance requirements detailed in Paragraph (a), all applicable requirements by the county or municipality, and Federal regulations. All construction or alteration shall be in accordance with the Aircraft Landing Area Permit. Except for highways on the Federal-aid highway system, the Board of Transportation shall authorize a permit at variance with the foregoing Federal Aviation Administration standards if it determines that the construction or alteration of the aircraft landing area will not result in a public road being a hazard to air navigation. The Department's determination of whether a public road is a hazard to air navigation shall be dependent on the type of aircraft, orientation of the landing area, and its respective alignment to the public highway, traffic, and utilities.

(c) Applicants seeking an Aircraft Landing Area Permit shall provide the Department with all plans, designs, estimates, and supporting data at the time the application is made. The estimates and data required may include, topographical surveys of the airport or aircraft landing area site and surrounding areas, including the proposed construction or alteration, with particular references to highways in the vicinity; hydrographic surveys, with particular reference to the effect that the proposed construction or alteration will have upon drainage patterns; and area maps, airport traffic patterns, and approach surfaces.

(d) This Rule shall not apply to publicly owned and operated airports and aircraft landing areas receiving Federal funds and subject to regulation by the Federal Aviation Administration, nor shall this Rule be construed to prohibit necessary repairs from being made to or on any airport facilities regardless of their present location.

*History Note: Authority G.S. 136-18(22);
Eff. November 1, 1985;
Amended Eff. November 1, 1993;
Readopted Eff. July 1, 2019.*

**19A NCAC 02E .0426 ACCESS ROUTES FOR STAA
DIMENSIONED VEHICLES**

The definitions and requirements set forth in this Rule shall apply to access routes for Surface Transportation Assistance Act (STAA) dimensioned vehicles.

(1) Definitions.

- (a) "Twin trailer truck" means a vehicle combination consisting of a truck-tractor and two trailing units, with a width not to exceed 102 inches, as authorized by G.S. 20-115.1.
- (b) "The National Truck Network" means a network of interstate, federal-aid primary, and other highway routes within the State that have been designated by the Department for motor vehicle combination use pursuant to G.S. 20-115.1(g) or the United States Secretary of Transportation for STAA dimensioned vehicle use. State highway system roads designated by the Department pursuant to G.S. 20-115.1(g) shall herein be referred to as the "North Carolina Truck Network."
- (c) "Terminal" means any location where:
 - (i) freight either originates, terminates, or is handled in the transportation process; or
 - (ii) commercial motor carriers maintain operating facilities.
- (d) "Vehicle Template" means a drawing of the radius of a twin trailer turn used to determine the route design necessary to accommodate the vehicle.
- (e) "Short-cut" means a route used for the purpose of connecting two National or North Carolina Truck Network routes.

(2) Reasonable Access Requirements.

- (a) No filing or authorization by the Department shall be required for access to terminals and service facilities located within three road miles of the National or North Carolina Truck Network.

(b) The following requirements shall apply for access to terminals located beyond three road miles from the National or North Carolina Truck Network.

- (i) Access routes approved prior to June 1, 1991, for any one particular type of STAA dimensioned vehicle are approved for all STAA dimensioned vehicles for access purposes only.
- (ii) Terminal officials and truck operators shall submit an application for a proposed new access route to the State Traffic Engineer of the Department for approval. The application shall be provided by the State Traffic Engineer. The contents of the application shall include the type of route designation requested, and name and contact information of the requesting party. The submittal shall also include a map, or photocopy of a portion of a map, showing the proposed access route(s) or changes to an existing approved access route(s) and the terminal location. The State Traffic Engineer may be reached at 919-814-5100 or 750 N. Greenfield Parkway, Garner, North Carolina 27529.
- (iii) The State Traffic Engineer may seek advice from the State Highway Patrol, the Division of Motor Vehicles, or other law enforcement officials concerning the application.
- (iv) Public notice of all applications for "reasonable access" pursuant to Sub-Item (2)(c) of this Rule shall be published by the Department of Transportation in a newspaper circulated in the area of the State where access is requested. The notice shall be published at least once a week on the same day of the week for two consecutive weeks. Governing bodies of incorporated municipalities

- shall be notified by the Department of all applications within their jurisdictions.
- (v) The State Traffic Engineer shall approve or deny all applications for proposed new accessed routes based upon the application of vehicle templates, roadway plans, and photographs. If plans or photographs are not available or the use of vehicle templates is not practical, the terminal official or truck operator shall provide a STAA dimensioned test vehicle and driver for the purpose of observing the text vehicle traverse the requested access route.
 - (vi) Safety factors that shall be taken into consideration when reviewing and evaluating requested access route shall include, traffic congestion, traffic volume, route length, vehicle mix, geometric design of the highway, intersection geometrics, width of the shoulders, width of the pavement, super-elevation of the pavement, pavement conditions, at-grade railroad crossings, stopping sight distance, percentage passing sight distance, speed limits, vertical and horizontal alignments, ability of other vehicles to pass trucks, width of bridges, previous accident statistics, and location of schools.
 - (vii) Short-cut routes shall not be authorized by this Rule. Such a route shall be considered for designation as an addition to the National or North Carolina Truck Network by the Department pursuant to G.S. 20-115.1(g).
 - (viii) The State Traffic Engineer shall approve or reject any application submitted pursuant to this Sub-item within 90 days of receipt. The State Traffic Engineer shall provide notification and justification for any approval or rejection to the applicant and law enforcement officials. Automatic approval of a requested access route shall be provided if such notification is not received within the 90-day period.
 - (c) The Department shall notify State and local law enforcement officers of an approved "reasonable access" route that serves each terminal within the jurisdiction of the enforcement agency. The State Traffic Engineer shall also make available to terminal officials and commercial motor vehicle operators information regarding reasonable access to and from the National or North Carolina Truck Network.
 - (d) The Department may, at any time subsequent to approval, revoke any routes designated as a "reasonable access" route based on safety considerations. Terminal officials, truck operators, and law enforcement officials shall be notified in writing 30 days prior to any revocation.
 - (e) Any STAA dimensioned vehicle traveling an access route shall have on board an cargo manifest.
 - (f) A terminal official, truck operator, or an state and local law enforcement officer may appeal the rulings concerning an access route made by the State Traffic Engineer to the Secretary of Transportation. In giving notice of appeal, the documentation to support reasons for believing that the determination of the State Traffic Engineer was erroneous shall be provided. The decision of the Secretary of Transportation shall be the final agency decision.

History Note: Authority G.S. 20-115.1; 136-18; 143B-350; Board of Transportation Minutes for November 18, 1988; Eff. November 1, 1991; Amended Eff. November 1, 1993; Readopted Eff. July 1, 2019.

19A NCAC 02E .0427 MULTI-USE PATHS

- (a) Authorization for a municipality to construct and maintain multi-use paths on State highway system rights-of-way shall be provided through an encroachment agreement between the municipality and Department. The encroachment agreement shall specify the conditions of approval.
- (b) The municipality shall submit multi-use path plans with a standardized encroachment agreement to the local highway

Division Engineer for review and approval. Encroachment agreements shall include provisions indicating that the municipality is responsible for the following:

- (1) design, construction, signage, and maintenance of the proposed multi-use paths;
- (2) submitting design and construction plans to the local highway Division Engineer for review and approval prior to bidding for construction; and
- (3) relocating the proposed multi-use trail if the highway right-of-way is required for the purpose of road widening by the Department.

(c) A proposed encroachment agreement shall be approved by the Division Engineer upon a determination that the proposed multi-use path is safe and does not conflict with planned highway improvements that have been recommended in an adopted transportation plan.

(d) If a proposed multi-use path utilizes State highway system rights-of-way acquired through the use of federal aid highway funds, then approval shall be obtained from the Federal Highway Administration.

History Note: Authority G.S. 136-71.9; 136-71.10; Eff. July 1, 1978; Amended Eff. October 1, 1993; Transferred and Recodified from 19A NCAC 2B .0161 Eff. October 1, 1993. Readopted Eff. July 1, 2019.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 31 - MARRIAGE AND FAMILY THERAPY LICENSURE BOARD

21 NCAC 31 .0201 CREDENTIALS REQUIRED

An applicant for licensure as a marriage and family therapist or marriage and family therapist associate shall submit the following to the Board:

- (1) Notarized application form and application fee;
- (2) Official graduate college transcripts sent to the Board by the training institution(s) demonstrating:
 - (a) completion of a master's or doctoral degree in marriage and family therapy from a recognized educational institution, as defined in G.S. 90-270.47(5), encompassing an appropriate course of study as listed in Rule .0501 of this Chapter; or
 - (b) completion of a related degree, as defined in G.S. 90-270.47(6), from a recognized educational institution, encompassing an appropriate course of study as defined in Rule .0501 of this Chapter;
- (3) Copies of course catalog and syllabi reflective of the semester the course was passed as listed

on the transcript to show marriage and family therapy course content;

- (4) Supervision Reports, using forms available on the Board website, www.ncmlft.org, submitted from American Association of Marriage and Family Therapy (AAMFT) approved supervisors. Forms shall verify the number of hours of clinical experience with individuals, groups, relational units, assessments, and psychoeducation, in addition to verifying the number of supervision hours acquired individually and in group settings as defined by the AAMFT Approved Supervision Designation: Standards Handbook;
- (5) Evidence of good moral character, which shall include three endorsements for licensure, using Board forms, from persons familiar with the applicant; and
- (6) Evidence of a passing score on the National Marriage and Family Therapy Examination.

History Note: Authority G.S. 90-270.51(b); 90-270.52; 90-270.54(a); Eff. August 1, 1984; Amended Eff. October 1, 2011; March 1, 1996; April 1, 1989; Readopted Eff. July 1, 2019.

21 NCAC 31 .0202 REVIEW PROCEDURE

(a) The applicants shall submit copies of all materials required by Rule .0201 of this Section to the Board office one month prior to the scheduled meeting when the application will be reviewed.

(b) If the application is approved by the Board, the Board shall inform the applicant of the approval. Applicants shall be notified using the contact information listed on the application. A physical copy of the license will be issued to the new licensee.

(c) If the application is not approved by the Board, the Board shall inform the applicant of the denial, with an explanation of the areas that are deficient. Applicants may remedy deficiencies within two years from the date of the notification without having to reapply. After two years of application inactivity, the file shall be closed and a new application and fee shall be required.

(d) If during the review process, questions arise that may affect the applicant's qualifications for licensing, the Board shall seek to resolve the questions by communication with the person who made the comments or any other person(s), or may refer the matter to counsel or to an employee of the Board for investigation.

(e) If the Board denies an application, it shall send the applicant written notice, stating the grounds for denial. An applicant who has been denied licensure may file a request for hearing pursuant to G.S. 150B-38 within 15 days of notice of the denial. In lieu of a hearing, the applicant may present additional written material in support of the application, which shall be reviewed at the next scheduled Board meeting.

History Note: Authority G.S. 90-270.51; 90-270.52; 90-270.60; Eff. August 1, 1984; Amended Eff. July 1, 2011; March 1, 1996; April 1, 1989; Readopted Eff. July 1, 2019.

21 NCAC 31 .0203 ISSUANCE OF LICENSE

An applicant shall be granted a license when all requirements for licensing are met. The license shall display the licensee's name, licensing date, license number, the signatures of the Chairperson and Vice-Chairperson and the official seal of the Board.

History Note: Authority G.S. 90-270.51; 90-270.54; 90-270.54A;

Eff. August 1, 1984;

Amended Eff. March 1, 1996;

Readopted Eff. July 1, 2019.

21 NCAC 31 .0301 WRITTEN EXAMINATION

(a) All applicants for licensure as a Marriage and Family Therapist or Marriage and Family Therapy Associate shall be required to pass the National Marriage and Family Therapy Examination.

(b) The examination dates shall be determined by the American Marriage and Family Therapy Regulatory Board, (AMFTRB) and their contracted testing service. Dates for the examination shall be posted on the websites for the Board and the AMFTRB.

(c) The examination application requirements shall be set forth by the AMFTRB and adopted by the Board.

(d) Special Administrations. Applicants with disabilities that meet compliance requirements of the Americans with Disabilities Act of 1990 (ADA) may request accommodations for testing.

History Note: Authority G.S. 90-270.51(b); 90-270.55;

Eff. August 1, 1984;

Amended Eff. July 1, 2011; March 1, 1996;

Readopted Eff. July 1, 2019.

21 NCAC 31 .0401 LICENSURE RENEWAL FORM

(a) Licensees shall provide documentation of compliance with Rule .0701 of this Chapter to the Board on the forms provided by the Board.

(b) The Board shall waive the license application renewal fee for any individual who is currently licensed by and in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The waiver shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

(c) The Board shall extend the deadline for filing a license renewal application for any individual who currently holds a license and is in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The extension shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

History Note: Authority G.S. 90-270.51(b); 90-270.58; 93B-15;

Eff. August 1, 1984;

Amended Eff. July 1, 2011; March 1, 1996;

Readopted Eff. July 1, 2019.

21 NCAC 31 .0403 REINSTATEMENT AFTER EXPIRATION

(a) A license that expired for nonpayment of renewal fees or failure to comply with continuing education requirements may be reinstated, if within two years of expiration, the reinstatement fee is paid and evidence of completing continuing education requirements is submitted. The continuing education requirements documented at the time of reinstatement must equal the hours required had the license not expired.

(b) A license that has expired for nonpayment of renewal fees or failure to comply with continuing education requirements for a period of more than two years shall not be reinstated. A new license may be granted pursuant to paying the applicable license application fees and meeting the licensing requirements under Sections .0200 and .0300 of this Chapter.

History Note: Authority G.S. 90-270.51(b); 90-270.57; 90-270.58A;

Eff. March 1, 1996;

Readopted Eff. July 1, 2019.

21 NCAC 31 .0404 RETURN FROM INACTIVE STATUS

The Board shall consider requests for a return to active status on an individual basis.

History Note: Authority G.S. 90-270.51(b); 90-270.58B;

Eff. March 1, 1996;

Readopted Eff. July 1, 2019.

21 NCAC 31 .0501 APPROPRIATE COURSE OF STUDY

(a) Training required for an applicant with a marriage and family therapy degree or related degree in G.S. 90-270.54(a)(1)(a) is a graduate degree that includes marriage and family therapy content, including coursework in:

- (1) Theoretical Foundation of Marriage and Family Therapy;
- (2) Assessment and Diagnosis;
- (3) Practice of Marriage and Family Therapy;
- (4) Human Development and Family Relations;
- (5) Professional Identity and Ethics;
- (6) Clinical Research; and
- (7) Supervised Clinical Practicum or Internship.

(b) Applicants who were enrolled in a master's degree program on or before October 1, 2011 shall also be considered for licensure with coursework that includes specific marriage and family therapy content, including coursework in:

- (1) General Family Studies;
- (2) Marriage and Family Therapy Theory;
- (3) Psychopathology/Abnormal Behavior;
- (4) Theories of Personality; and
- (5) Supervised Clinical Practicum or Internship.

History Note: Authority G.S. 90-270.47; 90-270.51(b); 90-270.54(a)(1)(a);

Eff. August 1, 1984;

Amended Eff. October 1, 2011; March 1, 1996; April 1, 1989;

Readopted Eff. July 1, 2019.

21 NCAC 31 .0502 ONGOING SUPERVISION

(a) Ongoing supervision as contained in G.S. 90-270.51(a)(1)(b) means face-to-face conversation with someone who holds the designation as an AAMFT Approved Supervisor, or a person who otherwise meets the standards set forth by AAMFT as outlined in the current edition of the AAMFT Approved Supervision Designation: Standards Handbook, which is incorporated by the Board by reference. These incorporated standards include subsequent amendments and additions. A copy of these standards may be obtained at no charge at their website, www.aamft.org.

(b) Ongoing supervision shall focus on the raw data, defined as quantitative information about the client, from the supervisee's continuing clinical practice, which shall be available to the supervisor through a combination of direct observation where the supervisor witnesses the supervisee providing therapy during a live session, co-therapy, written clinical notes, and audio and video recordings.

(c) None of the following constitutes ongoing supervision:

- (1) Peer supervision - the supervision by a person of equivalent qualifications, status, and experience, as opposed to supervision provided by someone who holds a higher level of licensure than the supervisee;
- (2) Supervision by current or former family members of the individual's immediate or extended family, including a current or past significant other, lineal ascendants or descendants of the individual or his or her significant other, or any other persons where the nature of the personal relationship prevents or makes difficult the establishment of a professional relationship due to dual roles or conflicts of interest;
- (3) Administrative supervision - clinical practice performed under administrative, rather than clinical, supervision by an institutional director or executive;
- (4) A didactic process wherein techniques or procedures are taught in a classroom, workshop, or seminar; or
- (5) Consultation, staff development, or orientation to a field or program or role-playing of family interrelationships as a substitute for clinical practice in a clinical situation.

(d) Applicants for licensure must have accumulated a minimum of 200 hours of ongoing supervision from a supervisor who meets the standards as set forth in the AAMFT Approved Supervision Designation: Standards Handbook, concurrent with the completion of the 1,500 hours of clinical experience required by G.S. 90-270.51(a)(1)(b). Licensed Marriage and Family Therapy Associates must remain under on-going supervision for at least one hour monthly until licensed as a Licensed Marriage and Family Therapist as required by Rule .0802 of this Chapter.

(e) Graduates of marriage and family therapy programs who have completed 200 hours of ongoing supervision from a supervisor who meets the standards as set forth in the AAMFT Approved Supervision Designation: Standards Handbook, within their degree program shall complete a minimum of 25 hours of approved ongoing supervision concurrently with the completion

of the remaining hours of post-degree clinical experience required by G.S. 90-270.51(a)(1)(b). Graduates of marriage and family therapy programs may apply up to 500 hours of direct client contact, as defined by Rule .0506, obtained during their program toward the 1,500 required as long as those hours were obtained under the supervision of an AAMFT Approved Supervisor or AAMFT Supervisor Candidate who held a supervision contract with the applicant and who was personally responsible for overseeing the applicant's treatment plans, therapy notes, progress notes, practice of therapy, and client interaction. Applicants for the Marriage and Family Therapy license must have documented a minimum of 500 relational hours toward their required 1,500 hours. For the purposes of this Rule, "relational hours" shall mean hours spent providing therapy with more than one client in the room who are all part of the same treatment plan. Relational hours may also include face-to-face communication with members of the larger system, as defined in G.S. 90-270.47(2b), who are also working with the same client(s). This contact may only be counted if it is authorized via written release by the client(s) or required by law for the purpose of developing and carrying out a treatment plan.

(f) Supervision Reports, as outlined in Rule .0201(4) of this Chapter, shall be submitted on supervision report forms provided by the Board. Supervision report forms are contained within the licensure application packet that may be obtained from the Board's website.

History Note: Authority G.S. 90-270.51(b); 90-270.54; 90-270.54A;

Eff. August 1, 1984;

Amended Eff. July 1, 2011; May 1, 1996; April 1, 1989;

Readopted Eff. July 1, 2019.

21 NCAC 31 .0503 RELATED DEGREE

(a) An appropriate course of study for a "related" degree under G.S. 90-270.47(6)(e) is defined as a minimum of or quarter hour equivalent to a 45-semester hour graduate program. Thirty-three semester hours or their quarter hour equivalent shall consist of the following content and clinical training:

- (1) Theoretical Foundation of Marriage and Family Therapy (six semester hours);
- (2) Assessment and Diagnosis (three semester hours);
- (3) Practice of Marriage and Family Therapy (six semester hours);
- (4) Human Development and Family Relations (three semester hours);
- (5) Professional Identity and Ethics (three semester hours);
- (6) Research in Marriage and Family Therapy (three semester hours); and
- (7) Supervised Clinical Practicum or Internship (nine semester hours).

The remaining 18 semester hours shall consist of course work appropriate to the disciplinary specialty in which the degree is granted.

(b) Applicants who were enrolled in a related degree program on or before July 1, 2011 shall be considered for licensure in accordance with this Paragraph. An appropriate course of study

for an "related" degree under G.S.90-270.47(6)(e) is defined by the Board to consist of a 45-semester hour graduate program. Twenty-seven semester hours consist of the following content and clinical training:

- (1) General Family Studies (six semester hours). This category may include courses in marriage, family relations, child development, family sociology, or other related topics in which the marriage and family content is evident.
- (2) Marriage and Family Therapy Theory (six semester hours). This category includes specific and extensive content in marriage and family therapy content and systems theory theory, not just general counseling course content, as well as other theoretical approaches to marriage and family therapy. In addition, the Board shall consider course work in this category that exceeds six semester hours to be applicable toward meeting the requirements for General Family Studies.
- (3) Individual Studies. Theories of Personality (three semester hours), and Psychopathology or Abnormal Behavior (three semester hours).
- (4) Clinical Practicum in Marriage and Family Therapy, nine semester hours or 20 hours per week for 12 months.

The remaining 18 semester hours shall consist of course work appropriate to the disciplinary specialty in which the degree is granted.

History Note: Authority G.S. 90-270.47(1)e; 90-270.51(b); 90-270.54(a)(1)a;
Eff. August 1, 1984;
Amended Eff. July 1, 2011; March 1, 1996; April 1, 1989;
Readopted Eff. July 1, 2019.

21 NCAC 31 .0504 ALTERNATIVE TO CLINICAL PRACTICUM

In lieu of the clinical practicum requirements under Rule .0501 or Rule .0503 of this Section, the Board shall accept evidence of a supervised clinical practicum, which is defined as at least 120 clinical contact hours with at least 24 hours of supervision obtained after the granting of a related degree in an equivalent course of study. The supervision must meet the requirements of "approved supervision" under Rule .0502 of this Section. The hours of supervision must be reported to the Board on the Board forms, available at nclmft.org.

History Note: Authority G.S. 90-270.51(b);
Eff. August 1, 1984;
Amended Eff. July 1, 2011; March 1, 1996;
Readopted Eff. July 1, 2019.

21 NCAC 31 .0505 NONDEGREE GRANTING POSTGRADUATE TRAINING PROGRAMS

(a) In assessing the applicant's fulfillment of the educational requirements for licensure pursuant to G.S. 90-270.54(a)(1)(a), the Board shall accept a transcript as evidence of the applicant's completion of postgraduate training in marriage and family

therapy from nondegree granting institutions or programs providing that:

- (1) The program has a specified curriculum in marriage and family therapy;
- (2) The program is ongoing and additive, which means offered at the same place over a specific period of time and is available on an ongoing basis;
- (3) The program is attached to an identifiable institution, training facility, or agency; and
- (4) Documentation is maintained by the institution, training facility, or agency regarding a person's involvement in and completion of the program. Such documentation must include approved clinical supervision and performance evaluation.

(b) Workshops, seminars and general continuing education events do not qualify as postgraduate training under this Rule.

History Note: Authority G.S. 90-270.51(b); 90-270.54(a)(1)(a);
Eff. August 1, 1984;
Amended Eff. March 1, 1996; April 1, 1989;
Readopted Eff. July 1, 2019.

21 NCAC 31 .0506 DIRECT CLIENT CONTACT

(a) As used in this Chapter, "direct client contact" means face-to-face therapy between the therapist and client, therapy within individuals, couples, families, or groups from a systemic perspective and includes relational hours. Direct client contact must:

- (1) Relate to client treatment plans;
- (2) Be goal-directed; and
- (3) Assist the client to effect change in cognition, affect, and behavior.

(b) Assessments (intake and otherwise) may be counted up to 250 hours of direct client contact. For the purposes of this Rule, "assessment" shall mean a clinical encounter that involves gathering of current and historical data from a client that is then used to determine what type of therapeutic service is most appropriate. If the individual who conducted the assessment does not provide the therapeutic service, the Board shall consider it as an assessment hour only.

(c) Client psychoeducation may be counted up to 250 hours direct client contact. For the purposes of this Rule, "Psychoeducation" means a treatment approach that provides education for individuals and families in assistance with emotional, mental, social, and relational disturbances.

(d) The following are not direct client contact and may not be counted:

- (1) Observing therapy without actively participating in follow-up therapy at some point during or immediately following the session, while the client is still available;
- (2) Record keeping;
- (3) Administrative activities;
- (4) Supervision; and
- (5) Client contact while not receiving supervision.

History Note: Authority G.S. 90-270.51(b); 90-270.54(a)(1)b;
 Eff. March 1, 1996;
 Amended Eff. July 1, 2011;
 Readopted Eff. July 1, 2019.

21 NCAC 31 .0609 ETHICAL PRINCIPLES

- (a) The Board adopts the the American Association for Marriage and Family Therapy (AAMFT) Code of Ethics by reference, including subsequent amendments and editions. Copies of the Code may be viewed for free at www.aamft.org.
- (b) Each applicant or licensee shall follow this code of ethics.

History Note: Authority G.S. 90-270.51(b); 90-270.60(9);
 Eff. March 1, 1996;
 Amended Eff. July 1, 2011;
 Readopted Eff. July 1, 2019.

21 NCAC 31 .0701 REQUIREMENTS FOR CONTINUING EDUCATION

- (a) Licensed Marriage and Family Therapists and Licensed Marriage and Family Therapy Associates shall submit each year with the license renewal forms proof of 20 hours of continuing education credits in marriage and family therapy continuing education obtained subsequent to the prior license renewal. Proof of completion shall consist of a certificate of attendance and completion signed by the continuing education provider and shall include date(s) of attendance, number of hours, name of attendee, and name of course.
- (b) Continuing education units that by title and content deal with marriage and family therapy practice and therapeutic issues, ethics and supervision of marriage and family therapy shall be approved by the Board.
- (c) Ongoing supervision by an AAMFT approved supervisor or AAMFT supervisor candidate may be utilized by the supervisee for up to 12 hours of continuing education. Written documentation of the supervisor's status shall be provided to the Board via a copy of the AAMFT supervisor or supervisor candidate verification form.
- (d) Three hours of the required 20 hours of continuing education shall consist of ethics training in the provision of professional mental health services for each renewal period.
- (e) The maximum number of hours of continuing education credits for presenting a continuing education course in marriage and family therapy or teaching a course in marriage and family therapy at a recognized educational institution is five.
- (f) Continuing education credit shall not be accepted for the following:
 - (1) Regular work activities, administrative staff meetings, case staffing, or reporting;
 - (2) Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations, or banquet speeches;
 - (3) Independent learning undertaken by the licensee without peer or other guidance, review, input, supervision, or monitoring;
 - (4) Training related to policies and procedures of an agency; or

- (5) Non-therapy content programs, such as finance or business management.
- (g) If a person submits documentation for continuing education that is not identifiable as dealing with marriage and family therapy practice and therapeutic issues, ethics, or the supervision of marriage and family therapy, the Board shall request a written description of the continuing education and how it applies to professional practice in marriage and family therapy.
- (h) If the Board determines that the training cannot be considered, the individual shall be given 90 days from the date of notification to replace the hours not allowed. Those hours shall be considered replacement hours and shall not be counted during the next renewal period. If evidence of completion of marriage and family continuing education is not presented to the Board within 90 days from the date of notification, the license shall expire automatically.
- (i) The Board shall waive the continuing education requirements in this Rule for any individual who is currently licensed by and in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The waiver shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.
- (j) If the proof of completion is not postmarked by July 1, the proof of completion shall not be accepted by the Board, and the license will expire effective July 1.

History Note: Authority G.S. 90-270.51(b); 90-270-58C;
 93B-15;
 Eff. March 1, 1996;
 Amended Eff. July 1, 2011;
 Readopted Eff. July 1, 2019.

21 NCAC 31 .0801 LICENSED MARRIAGE AND FAMILY THERAPY ASSOCIATE CREDENTIALS REQUIRED

- (a) An applicant for licensure as a Marriage and Family Therapy Associate shall ensure the submission of the following to the Board:
 - (1) Notarized application form and application fee;
 - (2) Official graduate college transcripts sent directly to the Board by the training institution(s) showing completion of a master's or doctoral degree in marriage and family therapy from a recognized educational institution, or completion of a related degree from a recognized educational institution with course of study encompassing coursework as defined by the Board in Rule .0501 of this Chapter. Additional documentation, such as copies of the course catalog and syllabi of qualifying coursework shall be required if the Board has questions about course content;
 - (3) Evidence of good moral character, as shown by three endorsements for licensure, using Board forms, from persons familiar with the applicant;

- (4) Evidence of a passing score on the examination required by the Board pursuant to G.S. 90-270.54(a)(2); and
- (5) A supervision agreement with a supervisor who meets the requirements of Rule .0502 for ongoing supervision.

(b) All application materials shall be received within two years from the date of the application or the file shall be closed.

*History Note: Authority G.S. 90-270.51(b); 90-270.54A;
Eff. March 1, 1996;
Amended Eff. October 1, 2011;
Readopted Eff. July 1, 2019.*

21 NCAC 31 .0802 LICENSED MARRIAGE AND FAMILY THERAPY ASSOCIATE

- (a) For purposes of G.S. 90-270.52A(c) "special circumstances" shall mean events beyond the control or fault of the Licensed Marriage and Family Therapy Associate, including illness of self, life partner, spouse, or child, or death of life partner, spouse, or child.
- (b) Persons who are licensed as Licensed Marriage and Family Therapy Associates must disclose to their clients that they are required to practice under on-going supervision, and the name of their supervisor.

*History Note: Authority G.S. 90-270.54A;
Eff. July 1, 2011;
Readopted Eff. July 1, 2019.*

21 NCAC 31 .1001 FEES

The Board sets the following fees:

- | | | |
|------|---|----------|
| (1) | Each license examination | \$ 50.00 |
| (2) | Each license application as a marriage and family therapist | \$200.00 |
| (3) | Each license application as a marriage and family therapist associate | \$200.00 |
| (4) | Each reciprocal license application | \$200.00 |
| (5) | Each renewal of license | \$100.00 |
| (6) | Each reinstatement of an expired license | \$200.00 |
| (7) | Each application to return to active status | \$200.00 |
| (8) | Each duplicate license | \$ 25.00 |
| (9) | Each annual maintenance of inactive status | \$ 50.00 |
| (10) | Each application to extend associate license | \$ 50.00 |

*History Note: Authority G.S. 90-270.57;
Eff. July 1, 2011;
Readopted Eff. July 1, 2019.*

21 NCAC 31 .1002 FUND SUSPENSION

In the event the Board's authority to expend funds is suspended pursuant to G.S. 93B-2, the Board shall continue to issue and renew licenses and all fees tendered shall be placed in an escrow account maintained by the Board for this purpose.

*History Note: Authority G.S. 93B-2(d);
Eff. July 1, 2011;
Readopted Eff. July 1, 2019.*

CHAPTER 32 - MEDICAL BOARD

21 NCAC 32B .1303 APPLICATION FOR PHYSICIAN LICENSE

(a) In order to obtain a physician license, an applicant shall:

- (1) submit a completed application, attesting under oath or affirmation that the information on the application is true and complete and authorizing the release to the Board of all information pertaining to the application;
- (2) submit a photograph, two inches by two inches, affixed to the oath or affirmation that has been attested to by a notary public;
- (3) submit documentation of a legal name change, if applicable;
- (4) supply a certified copy of applicant's birth certificate if the applicant was born in the U.S. or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration and work status that the Board will use to verify applicant's ability to work lawfully in the U.S.;
- (5) submit proof on the Board's Medical Education Certification form that the applicant has completed at least 130 weeks of medical education and received a medical degree. However, the Board shall waive the 130-week requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS, or AOA approved specialty board within the past 10 years;
- (6) for an applicant who has graduated from a medical or osteopathic school approved by the LCME, the CACMS, or COCA, meet the requirements set forth in G.S. 90-9.1;
- (7) for an applicant graduating from a medical school not approved by the LCME, meet the requirements set forth in G.S. 90-9.2;
- (8) provide proof of passage of an examination testing general medical knowledge. In addition to the examinations set forth in G.S. 90-10.1 (a state board licensing examination, NBME, USMLE, FLEX, or their successors), the Board accepts the following examinations (or their successors) for licensure:
 - (A) COMLEX;
 - (B) NBOME; and
 - (C) MCCQE;
- (9) submit proof that the applicant has completed graduate medical education as required by G.S. 90-9.1 or 90-9.2, as follows:

- (A) A graduate of a medical school approved by LCME, CACMS, or COCA shall have completed at least one year of graduate medical education approved by ACGME, CFPC, RCPSC, or AOA;
 - (B) A graduate of a medical school not approved by LCME shall have completed three years of graduate medical education approved by ACGME, CFPC, RCPSC, or AOA;
 - (C) An applicant may satisfy the graduate medical education requirements of Parts (A) or (B) of this Subparagraph by showing proof of current certification by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS, or AOA;
 - (10) submit a FCVS profile:
 - (A) If the applicant is a graduate of a medical school approved by LCME, CACMS, or COCA, and the applicant previously has completed a FCVS profile; or
 - (B) If the applicant is a graduate of a medical school other than those approved by LCME, COCA, or CACMS;
 - (11) if a graduate of a medical school other than those approved by LCME, AOA, COCA, or CACMS, furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if: the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required);
 - (12) submit an AMA Physician Profile and, if the applicant is an osteopathic physician, also submit an AOA Physician Profile;
 - (13) if applying on the basis of the USMLE, submit:
 - (A) a transcript from the FSMB showing a score on USMLE Step 1, both portions of Step 2 (clinical knowledge and clinical skills) and Step 3; and
 - (B) proof that the applicant has passed each step within three attempts. However, the Board shall waive the three-attempt requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS, AOA, American Board of Oral Maxillofacial Surgery ("ABOMS") approved specialty board within the past 10 years;
 - (14) if applying on the basis of COMLEX, submit:
 - (A) a transcript from the NBOME showing a score on COMLEX Level 1, both portions of Level 2 (cognitive evaluation and performance evaluation) and Level 3; and
 - (B) proof that the applicant has passed COMLEX within three attempts. However, the Board shall waive the three-attempt requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS, AOA, or ABOMS approved specialty board within the past 10 years;
 - (15) if applying on the basis of any other board-approved examination, submit a transcript showing a passing score;
 - (16) submit two completed fingerprint record cards supplied by the Board;
 - (17) submit a signed consent allowing a search of local, state, and national files for any criminal record;
 - (18) provide two original references from persons with no family or marital relationship to the applicant. These references shall be:
 - (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
 - (B) on forms supplied by the Board;
 - (C) dated within six months of the submission of the application; and
 - (D) bearing the original signature of the writer;
 - (19) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and
 - (20) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (b) In addition to the requirements of Paragraph (a) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past 10 years taken and passed either:
 - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination, NBOME, USMLE, COMLEX, or MCCQE or their successors);
 - (B) SPEX (with a score of 75 or higher); or
 - (C) COMVEX (with a score of 75 or higher);
 - (2) within the past 10 years:
 - (A) obtained certification or recertification or CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS, AOA or American Board of Maxillofacial Surgery;

- (B) met requirements for ABMS MOC (maintenance of certification) or AOA OCC (Osteopathic continuous certification);
- (3) within the past 10 years completed GME approved by ACGME, CFPC, RCPSC, or AOA; or
- (4) within the past three years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.

(c) All reports must be submitted directly to the Board from the primary source.

(d) An applicant shall appear in person for an interview with the Board or its agent, if the Board determines it needs more information to evaluate the applicant based on the information provided by the applicant and the Board's concerns.

(e) An application must be completed within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

History note: Authority G.S. 90-5.1(a)(3); 90-8.1; 90-9.1; 90-9.2; 90-13.1;

Eff. August 1, 2010;

Amended Eff. December 1, 2013; January 1, 2012; November 1, 2011; October 1, 2011;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;

Amended Eff. July 1, 2019.

21 NCAC 32B .1350 REINSTATEMENT OF PHYSICIAN LICENSE

(a) "Reinstatement" is for a physician who has held a North Carolina license, but whose license either has been inactive for more than one year, or whose license became inactive as a result of disciplinary action (revocation or suspension) taken by the Board. It also applies to a physician who has surrendered a license prior to charges being filed by the Board.

(b) All applicants for reinstatement shall:

- (1) submit a completed application, that can be found on the Board's website in the application section at <http://www.ncmedboard.org/licensing>, attesting under oath or affirmation that information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) supply a certified copy of the applicant's birth certificate if the applicant was born in the U.S. or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, the applicant shall provide information about the applicant's immigration status that the Board shall use to verify the applicant's legal presence in the U.S. Applicants who are not physically present in the

U.S. and who do not plan to practice by being physically present in the U.S. shall submit a written statement to that effect;

- (4) furnish an original ECFMG certification status report of a currently valid certification of the ECFMG if the applicant is a graduate of a medical school other than those approved by LCME, AOA, COCA, or CACMS. The ECFMG certification status report requirement shall be waived if: the applicant has passed the ECFMG examination and completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required);
- (5) submit the AMA Physician Profile; and, if the applicant is an osteopathic physician, also submit the AOA Physician Profile;
- (6) submit documentation of CME obtained in the last three years;
- (7) submit two completed fingerprint cards supplied by the Board;
- (8) submit a signed consent allowing a search of local, state, and national files to disclose any criminal record;
- (9) provide two original references from persons with no family or marital relationship to the applicant. These references shall be:
 - (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
 - (B) on forms supplied by the Board;
 - (C) dated within six months of submission of the application; and
 - (D) bearing the original signature of the author;
- (10) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and
- (11) upon request, provide any additional information the Board deems necessary to evaluate the applicant's qualifications.

(c) In addition to the requirements of Paragraph (b) of this Rule, the applicant shall submit proof that the applicant has:

- (1) within the past 10 years taken and passed either:
 - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination, NBOME, USMLE, COMLEX, or MCCQE or their successors);
 - (B) SPEX (with a score of 75 or higher); or
 - (C) COMLEX (with a score of 75 or higher);
- (2) within the past ten years:
 - (A) obtained certification or recertification of CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS, AOA, or American Board of Oral Maxillofacial Surgery;

- (B) met requirements for ABMS MOC (maintenance of certification) or AOA OCC (Osteopathic continuous certification);
- (3) within the past 10 years completed GME approved by ACGME, CFPC, RCPSC or AOA; or
- (4) within the past three years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.

(d) All reports shall be submitted directly to the Board from the primary source.

(e) An applicant shall be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character if the Board determines it needs more information to evaluate the applicant based on the information provided by the applicant and the Board's concerns.

(f) An application must be complete within one year of submission. If not, the applicant shall be charged another application fee plus the cost of another criminal background check.

(g) Notwithstanding the provisions of this Rule, the licensure requirements established by rule at the time the applicant first received his or her equivalent North Carolina license shall apply. Information about these Rules is available from the Board.

History Note: Authority G.S. 90-5.1(a)(3); 90-8.1; 90-9.1; 90-10.1; 90-13.1;

Eff. August 1, 2010;

Amended Eff. September 1, 2014; November 1, 2013; November 1, 2011;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;

Amended Eff. July 1, 2019.

21 NCAC 32B .1502 APPLICATION FOR MEDICAL SCHOOL FACULTY LICENSE

(a) The Medical School Faculty License is limited to physicians who have expertise that can be used to help educate North Carolina medical students, post-graduate residents, and fellows but who do not meet the requirements for physician licensure.

(b) In order to obtain a Medical School Faculty License, an applicant shall:

- (1) submit a completed application, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit the Board's form, signed by the Dean or the Dean's appointed representative, stating that the applicant has received a full-time paid appointment as either an instructor, lecturer, assistant professor, associate professor, or full professor at a medical school in the state of North Carolina;
- (3) submit documentation of a legal name change, if applicable;

- (4) submit a photograph, two inches by two inches, affixed to the oath or affirmation that has been attested to by a notary public;
- (5) submit proof on the Board's Medical Education Certification form that the applicant has completed at least 130 weeks of medical education. However, the Board shall waive the 130-week requirement if the applicant has been certified or recertified by an ABMS, FRCP, or FRCS approved specialty board within the past 10 years;
- (6) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired U.S. passport if the applicant was born in the U.S. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's lawful presence in the U.S.;
- (7) submit proof of satisfactory completion of at least one year of GME approved by ACGME, CFPC, RCPSC, or AOA; or evidence of other education, training or experience, determined by the Board to be equivalent;
- (8) submit reports from all medical or osteopathic boards from which the applicant has ever held a medical or osteopathic license, stating the status of the applicant's license and whether or not any action has been taken against the license;
- (9) submit an AMA Physician Profile; and, if applicant is an osteopathic physician, also submit an AOA Physician Profile;
- (10) submit a NPDB report dated within 60 days of applicant's oath;
- (11) submit a FSMB Board Action Data Bank report;
- (12) submit two completed fingerprint record cards supplied by the Board;
- (13) submit a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
- (14) provide two original reference letters from persons with no family or marital relationship to the applicant. These letters must be:
 - (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
 - (B) on forms supplied by the Board;
 - (C) dated within six months of the applicant's oath; and
 - (D) bearing the original signature of the writer;
- (15) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and

- (16) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

(c) All reports must be submitted directly to the Board from the primary source.

(d) An applicant may be required to appear in person for an interview with the Board or its agent if the Board determines it needs more information to evaluate the applicant based on the information provided and the Board's concerns.

(e) An application must be completed within one year of the date of the applicant's oath.

History Note: Authority G.S. 90-5.1(a)(3); 90-12.3; 90-13.2; Eff. June 28, 2011;

Amended Eff. November 1, 2013;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;

Amended Eff. July 1, 2019.

21 NCAC 32B .1706 PHYSICIAN PRACTICE AND LIMITED LICENSE FOR DISASTERS AND EMERGENCIES

(a) The Board shall waive requirements for licensure in the circumstances set forth in G.S. 90-12.5.

(b) There are two ways for physicians to practice under this Rule:

- (1) Hospital to Hospital Credentialing: A physician who holds a full, unlimited, and unrestricted license to practice medicine in another U.S. state, territory, or district and has unrestricted hospital credentials and privileges in any U.S. state, territory, or district may come to North Carolina and practice medicine at a hospital that is licensed by the North Carolina Department of Health and Human Services upon the following terms and conditions:
 - (A) the licensed North Carolina hospital shall verify all physician credentials and privileges;
 - (B) the licensed North Carolina hospital shall keep a list of all physicians coming to practice and shall provide this list to the Board within 10 days of each physician practicing at the licensed North Carolina hospital. The licensed North Carolina hospital shall also provide the Board a list of when each physician has stopped practicing medicine in North Carolina under this Rule within 10 days after each physician has stopped practicing medicine under this Rule;
 - (C) all physicians practicing under this Rule shall be authorized to practice medicine in North Carolina and shall be deemed to be licensed to practice medicine in the State and the Board shall have jurisdiction over all physicians practicing under this Rule

for all purposes set forth in or related to G.S. 90, Article 1, and such jurisdiction shall continue in effect even after any and all physicians have stopped practicing medicine under this Rule;

(D) a physician may practice under this Rule for the shorter of :

- (i) 30 days from the date the physician has started practicing under this Rule; or
- (ii) a statement by an appropriate authority is made that the emergency or disaster declaration has been withdrawn or ended and, at such time, the license deemed to be issued shall become inactive; and

(E) physicians practicing under this Rule shall not receive any compensation outside of their customary compensation for the provision of medical services during a disaster or emergency.

(2) Limited Emergency License: A physician who holds a full, unlimited, and unrestricted license to practice medicine in another U.S. state, territory, or district may apply for a limited emergency license on the following conditions:

- (A) the applicant must complete a limited emergency license application;
- (B) the Board shall verify that the physician holds a full, unlimited, and unrestricted license to practice medicine in another U.S. state, territory, or district;
- (C) in response to a declared disaster or state of emergency and in order to best serve the public interest, the Board may limit the physician's scope of practice;
- (D) the Board shall have jurisdiction over all physicians practicing under this Rule for all purposes set forth in or related to Article 1 of Chapter 90 of the North Carolina General Statutes, and such jurisdiction shall continue in effect even after such physician has stopped practicing medicine under this Rule or the Limited Emergency License has expired;
- (E) this license shall be in effect for the shorter of:
 - (i) 30 days from the date it is issued; or
 - (ii) a statement by an appropriate authority is made that the emergency or disaster

- declaration has been withdrawn or ended and, at such time, the license issued shall become inactive; and
- (F) physicians holding limited emergency licenses shall not receive any compensation outside of their customary compensation for the provision of medical services during a disaster or emergency.

*History Note: Authority G.S. 90.5.1(a)(1)(3); 90-12.5; 90-14(a);
Emergency Adoption Eff. October 2, 2018;
Emergency Adoption Expired Eff. December 14, 2018;
Eff. July 1, 2019.*

**21 NCAC 32B .2001 EXPEDITED APPLICATION
FOR PHYSICIAN LICENSE**

(a) A physician who meets the qualifications listed in this Rule may apply for a license on an expedited basis.

(b) An applicant for an expedited physician license shall:

- (1) complete the Board's application attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) submit a photograph, two inches by two inches, affixed to the oath or affirmation that has been attested to by a notary public;
- (4) supply a certified copy of applicant's birth certificate if the applicant was born in the U.S. or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration and work status that the Board will use to verify applicant's ability to work lawfully in the U.S. Applicants who are not present in the U.S. and who do not plan to practice physically in the U.S. shall submit a statement to that effect;
- (5) provide proof that applicant has held an active unrestricted license to practice medicine in at least one other state, the District of Columbia, U.S. Territory or Canadian province continuously for a minimum of five years immediately preceding this application;
- (6) provide proof of clinical practice providing patient care for an average of 20 hours or more per week, for at least the last two years;
- (7) provide proof of:
 - (A) current certification or current recertification by an ABMS, CCFP, FRCP, FRCS, AOA, or American Board of Maxillofacial Surgery approved specialty board obtained within the past 10 years; or

- (B) obtained certification or recertification of CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS, or AOA;
 - (C) met requirements for ABMS MOC (maintenance of certification) or AOA OCC (Osteopathic continuous certification);
- (8) if the applicant is a graduate of a medical school other than those approved by LCME, AOA, COCA, or CACMS, the applicant shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required);
- (9) submit an AMA Physician Profile and, if the applicant is an osteopathic physician, also submit an AOA Physician Profile;
 - (10) submit two completed fingerprint record cards supplied by the Board;
 - (11) submit a signed consent allowing a search of local, state and national files to disclose any criminal record;
 - (12) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a) plus the cost of a criminal background check; and
 - (13) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.

(c) A physician applying for an expedited license must:

- (1) not have any professional liability insurance claim(s) or payments(s) within the past 10 years;
- (2) not have any criminal conviction;
- (3) not have any medical conditions that could affect the physician's ability to practice safely;
- (4) not have any regulatory board complaints, investigations, or actions (including applicant's withdrawal of a license application) within the past 10 years;
- (5) not have any adverse actions taken by a health care institution within the past 10 years;
- (6) not have any adverse actions taken by a federal agency, the U.S. military, or medical societies within the past 10 years;
- (7) have passed an examination testing general medical knowledge. In addition to the examinations set forth in G.S. 90-10.1 (a state board licensing examination: NBME, USMLE, FLEX, or their successors), the Board accepts the following examinations (or their successors) for licensure:
 - (A) COMLEX;
 - (B) NBOME; and

(C) MCCQE.

(d) All reports must be submitted directly to the Board from the primary source.

History Note: Authority G.S. 90-5.1(a)(3); 90-9.1; 90-9.2; 90-11; 90-13.1;

Eff. August 1, 2010;

Amended Eff. November 1, 2013;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;

Amended Eff. July 1, 2019.

21 NCAC 32N .0110 INITIATION OF DISCIPLINARY HEARINGS

(a) The Board shall issue a notice of charges and allegations only upon completion of an investigation, a finding by the Board or a committee of the Board that there exists a factual and legal basis for an action pursuant to any subsection of G.S. 90-14(a), and a pre-charge conference, if one was requested by the licensee.

(b) Disciplinary proceedings shall be initiated and conducted pursuant to G.S. 90-14 through G.S. 90-14.7 and G.S. 150B-38 through G.S. 150B-42.

(c) A pre-hearing conference shall be held not less than seven days before the hearing date unless waived by the Board President or designated presiding officer upon written request by either party. The purpose of the conference will be to simplify the issues to be determined, obtain stipulations in regards to testimony or exhibits, obtain stipulations of agreement on undisputed facts or the application of particular laws, consider the proposed witnesses for each party, identify and exchange documentary evidence intended to be introduced at the hearing, and consider such other matters that may be necessary or advisable for the efficient and expeditious conduct of the hearing.

(d) The pre-hearing conference shall be conducted in the offices of the Board, unless another site is designated by mutual agreement of all parties. When a face-to-face conference is impractical, the Board President or designated presiding officer may order the pre-hearing conference be conducted by telephone conference.

(e) The pre-hearing conference shall be an informal proceeding and shall be conducted by the Board President or designated presiding officer.

(f) All agreements, stipulations, amendments, or other matters resulting from the pre-hearing conference shall be in writing, signed by the presiding officer, Respondent, or Respondent's counsel, and Board counsel, and introduced into the record at the beginning of the disciplinary hearing.

(g) Motions for a continuance of a hearing shall be granted upon a showing of good cause. In determining whether to grant such motions, the Board shall consider the Guidelines for Resolving Scheduling Conflicts adopted by the State-Federal Judicial Council of North Carolina. Motions for a continuance must be in writing and received in the office of the Board no less than 14 calendar days before the hearing date. A motion for a continuance filed less than 14 calendar days from the date of the hearing shall be denied unless the reason for the motion could not have been ascertained earlier. Motions for continuance shall be ruled on by the Board President or designated presiding officer.

(h) The Respondent may challenge on the basis of personal bias or other reason for disqualification the fitness and competency of any Board member to hear and weigh evidence concerning the Respondent. Challenges must be in writing accompanied by affidavit setting forth with specificity the grounds for such challenge and must be filed with the Board President or designated presiding officer at least 14 days before the hearing except for good cause shown. Nothing contained in this Rule shall prevent a Respondent appearing before the Board at a formal hearing from making inquiry of Board members as to their knowledge of and personal bias concerning that person's case and making a motion based upon the responses to those inquiries that a Board member recuse himself or herself or be removed by the Board President or presiding officer.

(i) In any formal proceeding pursuant to G.S. 90-14.1 and G.S. 90-14.2, discovery may be obtained as provided in G.S. 90-8 and 150B-39 by either the Board or the Respondent. Any discovery request by a Respondent to the Board shall be filed with the Chief Executive Officer of the Board. Nothing herein is intended to prohibit a Respondent or Respondent's counsel from issuing subpoenas to the extent that such subpoenas are otherwise permitted by law or rule. The Board may issue subpoenas for the Board or a Respondent in preparation for or in the conduct of a contested case as follows:

- (1) Subpoenas may be issued for the appearance of witnesses or the production of documents or information, either at the hearing or for the purposes of discovery;
- (2) Requests by a Respondent for subpoenas shall be made in writing to the Chief Executive Officer and shall include the following:
 - (A) the full name and home or business address of all persons to be subpoenaed; and
 - (B) the identification, with specificity, of any documents or information being sought;
- (3) Where Respondent makes a request for subpoenas and complies with the requirements in Subparagraph (2) of this Paragraph, the Board shall provide subpoenas promptly;
- (4) Subpoenas shall include the date, time, and place of the hearing and the name and address of the party requesting the subpoena. In the case of subpoenas for the purpose of discovery, the subpoena shall include the date, time, and place for responding to the subpoena; and
- (5) Subpoenas shall be served as provided by the Rules of Civil Procedure, G.S. 1A-1. The cost of service, fees, and expenses of any witnesses or documents subpoenaed shall be paid by the party requesting the witnesses.

(j) All motions, other than motions pursuant to Rules 12(b) and 56 of the North Carolina Rules of Civil Procedure related to a contested case shall be in writing and submitted to the Board at least 14 calendar days before the hearing. Pre-hearing motions shall be heard at the pre-hearing conference described in Paragraph (c) of this Rule. Motions filed fewer than 14 days before the hearing shall be considered untimely and shall not be

considered unless the reason for the motion could not have been ascertained earlier. In such case, the motion shall be considered at the hearing prior to the commencement of testimony. The Board President or designated presiding officer shall hear the motions and any response from the non-moving party and rule on such motions. If the pre-hearing motions are heard by an Administrative Law Judge from the Office of Administrative Hearings the provisions of G.S. 150B-40(e) shall govern the proceedings.

(k) Dispositive motions made pursuant to Rules 12(b) and 56 of the North Carolina Rules of Civil Procedure shall be filed no later than 14 calendar days before the hearing. Dispositive motions shall be heard, and decided upon, by a quorum of the Board. The Board shall receive the assistance of independent counsel when deciding a dispositive motion.

History Note: Authority G.S. 90-5.1(a)(3); 90-8; 90-14.1; 90-14.2; 90-14.3; 150B-38; 150B-39(c);

Eff. February 1, 2012;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;

Amended Eff. July 1, 2019.

21 NCAC 32N .0114 SUMMARY SUSPENSION

(a) If the Board finds that the public health, safety, or welfare requires emergency action, it may, pursuant to G.S. 150B-3(c), summarily suspend a license without a hearing or opportunity for the licensee to be heard.

(b) A motion to summarily suspend a license pursuant to this Rule shall be supported by competent evidence of the facts alleged requiring emergency action.

(c) The Board shall consult with independent counsel prior to issuing an order of summary suspension. The role of independent counsel shall be to advise the Board on the reliability and competency of the evidence presented in support of the motion for summary suspension.

(d) An order of summary suspension shall make preliminary findings of facts indicating why the public health, safety, or welfare requires emergency action. An order of summary suspension shall be accompanied by a notice of charges setting out the licensee's alleged violations of G.S. 90-14(a). Upon service of the order of summary suspension, the licensee to whom the order is directed shall immediately cease practicing in North Carolina.

(e) The Board shall, when it summarily suspends a license, schedule a hearing to occur at the earliest practicable date, but no later than 30 days from the date of service of the order of summary suspension. The purpose of the hearing will be to determine whether there is a preponderance of competent evidence supporting the order of summary suspension. A hearing on the order of summary suspension may be combined with a hearing on the merits of the notice of charges on a date mutually agreed upon by the parties.

(f) The order of summary suspension shall remain in effect until the Board vacates it.

(g) Neither an order of summary suspension nor a decision upholding an order of summary suspension is a final agency decision.

History Note: Authority G.S. 90-5.1(a)(3); 150B-3(c); Eff. July 1, 2019.

21 NCAC 32S .0219 PHYSICIAN ASSISTANT PRACTICE AND LIMITED LICENSE FOR DISASTERS AND EMERGENCIES

(a) The Board shall waive requirements for licensure in the circumstances set forth in G.S. 90-12.5.

(b) There are two ways for physician assistants to practice under this Rule:

- (1) Hospital to Hospital Credentialing: A physician assistant who holds a full, unlimited, and unrestricted license to practice medicine in another U.S. state, territory, or district and has unrestricted hospital credentials and privileges in any U.S. state, territory, or district may come to North Carolina and practice medicine at a North Carolina hospital that is licensed by the North Carolina Department of Health and Human Services upon the following terms and conditions:
 - (A) the licensed North Carolina hospital shall verify all physician assistant credentials and privileges;
 - (B) the licensed North Carolina hospital shall keep a list of all physician assistants coming to practice and their respective supervising physicians and shall provide this list to the Board within 10 days of each physician assistant practicing at the licensed North Carolina hospital. The licensed North Carolina hospital shall also provide the Board a list of when each physician assistant has stopped practicing medicine in North Carolina under this Rule within 10 days after each physician assistant has stopped practicing medicine under this Rule;
 - (C) all physician assistants practicing under this Rule shall be authorized to practice medicine in North Carolina and deemed to be licensed to practice medicine in the State and the Board shall have jurisdiction over all physician assistants practicing under this Rule for all purposes set forth in or related to Article 1 of Chapter 90 of the North Carolina General Statutes, and such jurisdiction shall continue in effect even after any and all physician assistants have stopped practicing medicine under this Rule;
 - (D) the physician assistant must practice under the direct supervision of an on-site physician and the supervising physician must be licensed in this State or approved to practice in this

- (E) State during a disaster or state of emergency pursuant to G.S. 90-12.5; a physician assistant may practice under this Rule for the shorter of:
- (i) 30 days from the date the physician assistant has started practicing under this Rule; or
 - (ii) a statement by an appropriate authority is made that the emergency or disaster declaration has been withdrawn or ended and, at such time, the license deemed to be issued shall become inactive; and
- (F) physician assistants practicing under this Rule shall not receive any compensation outside of their customary compensation for the provision of medical services during a disaster or emergency.
- (2) **Limited Emergency License:** A physician assistant who holds a full, unlimited, and unrestricted license to practice medicine in another U.S. state, territory, or district may apply for a limited emergency license on the following conditions:
- (A) the applicant must complete a limited emergency license application;
 - (B) the Board shall verify that the physician assistant holds a full, unlimited, and unrestricted license to practice medicine in another U.S. state, territory, or district;
 - (C) in response to a declared disaster or state of emergency and in order to best serve the public interest, the Board may limit the physician assistant's scope of practice;
 - (D) the physician assistant must practice under the direct supervision of an on-site physician and the supervising physician must be licensed in this State or approved to practice in this State during a disaster or state of emergency pursuant to G.S. 90-12.5;
 - (E) the Board shall have jurisdiction under G.S. 90-14(a) over all physician assistants practicing under this Rule for all purposes set forth in or related to G.S. 90, Article 1, and such jurisdiction shall continue in effect even after such physician assistant has stopped practicing medicine under this Rule or the Limited Emergency License has expired;
 - (F) this license shall be in effect for the shorter of:
 - (i) 30 days from the date it is issued; or
 - (ii) a statement by an appropriate authority is made that the emergency or disaster declaration has been withdrawn or ended and, at such time, the license issued shall become inactive; and
- (G) physician assistants holding limited emergency licenses shall not receive any compensation outside of their customary compensation for the provision of medical services during a disaster or emergency.
- (3) physician assistants and physicians practicing pursuant to this Rule are not required to maintain onsite documentation describing supervisory arrangements and instructions for prescriptive authority as otherwise required by 21 NCAC 32S .0213.
- (4) National Guard supervision waiver. The rules of this Subchapter are waived during a declared state of emergency by the Governor of the State of North Carolina or by a resolution of the North Carolina General Assembly for members of the North Carolina National Guard who are actively licensed as physician assistants in the State of North Carolina and are serving in a State Active Duty status.

History Note: Authority G.S. 90-5.1(a)(3); 90-12.5; 90-13.2(e); 90-14(a); Eff. September 1, 2009; Amended Eff. November 1, 2010; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016; Emergency Amendment Eff. October 2, 2018; Emergency Amendment Expired Eff. December 14, 2018; Amended Eff. July 1, 2019.

21 NCAC 32W .0116 ANESTHESIOLOGIST ASSISTANT PRACTICE AND LIMITED LICENSE FOR DISASTERS AND EMERGENCIES

- (a) The Board shall waive requirements for licensure in the circumstances set forth in G.S. 90-12.5.
- (b) There are two ways for anesthesiologist assistants to practice under this Rule:

- (1) **Hospital to Hospital Credentialing:** An anesthesiologist assistant who holds an unrestricted license in good standing to practice as an anesthesiologist assistant in another U.S. state, territory, or district and has unrestricted hospital credentials and privileges in any U.S. state, territory, or district may practice at a licensed North Carolina hospital upon the following terms and conditions:

- | | |
|---|---|
| <p>(A) the licensed North Carolina hospital shall verify all anesthesiologist assistant credentials and privileges;</p> <p>(B) the licensed North Carolina hospital shall keep a list of all anesthesiologist assistants coming to practice and shall provide this list to the Board within 10 days of each anesthesiologist assistant practicing at the licensed North Carolina hospital. The licensed North Carolina hospital shall also provide the Board a list of when each anesthesiologist assistant has stopped practicing at the hospital under this Rule within 10 days after each anesthesiologist assistant has ceased practicing under this Rule;</p> <p>(C) all anesthesiologist assistants practicing under this Rule shall be authorized to practice in North Carolina and deemed to be licensed in North Carolina and the Board shall have jurisdiction under G.S. 90-14(a) over all anesthesiologist assistants practicing under this Rule for all purposes set forth in or related to Article 1 of Chapter 90 of the North Carolina General Statutes, and the Board shall retain jurisdiction over any and all anesthesiologist assistants after they have stopped practicing under this Rule;</p> <p>(D) anesthesiologist assistants may practice under this section for the shorter of:</p> <p style="margin-left: 40px;">(i) 30 days from the date the anesthesiologist assistant has started practicing under this Rule; or</p> <p style="margin-left: 40px;">(ii) a statement is made by an appropriate authority that the emergency or disaster declaration has been withdrawn or ended and, at such time, the license issued shall become inactive; and</p> <p>(E) anesthesiologist assistants practicing under this Rule shall not receive any compensation outside of their customary compensation for the provision of medical services during a disaster or emergency.</p> <p>(2) Limited Emergency License: An anesthesiologist assistant who holds an unrestricted license in good standing to practice as an anesthesiologist assistant in another U.S. state, territory, or district may apply for a limited emergency license on the following conditions:</p> | <p>(A) the applicant must complete an application;</p> <p>(B) the Board shall verify that the anesthesiologist assistant holds an unrestricted license in good standing to practice in another U.S. state, territory, or district;</p> <p>(C) in response to a declared disaster or state of emergency and in order to best serve the public interest, the Board may limit the anesthesiologist assistant's scope of practice;</p> <p>(D) the Board shall have jurisdiction under G.S. 90-14(a) over all anesthesiologist assistants practicing under this Rule for all purposes set forth in or related to Article 1 of Chapter 90 of the North Carolina General Statutes, and the Board shall retain jurisdiction over any and all anesthesiologist assistants after they have stopped practicing under this Rule;</p> <p>(E) this license shall be in effect for the shorter of:</p> <p style="margin-left: 40px;">(i) 30 days from the date the anesthesiologist assistant has started practicing under this Rule; or</p> <p style="margin-left: 40px;">(ii) a statement is made by an appropriate authority that the emergency or disaster declaration has been withdrawn or ended and, at such time the license issued shall become inactive; and</p> <p>(F) anesthesiologist assistants holding limited emergency licenses shall not receive any compensation outside of their customary compensation for the provision of [medical services during a disaster or emergency.</p> |
|---|---|

*History Note: Authority G.S. 90-5.1(a)(3); 90-12.5; 90-14(a);
Emergency Adoption Eff. October 2, 2018;
Emergency Adoption Expired Eff. December 14, 2018;
Eff. July 1, 2019.*

CHAPTER 39 - ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD

21 NCAC 39 .0103 ANNUAL REPORTS

(a) On or before October 31 of each year, the Board shall prepare and file reports required pursuant to G.S. 93B-2. The Board shall file reports in the manner requested by receiving agency or committee.

(b) The Board shall maintain an escrow account at the financial institution used regularly for deposits and checks. Fees tendered during a period of suspension under G.S. 93B-2(d) shall be deposited into this escrow account.

History Note: Authority G.S. 90A-74; 93B-2;
Eff. July 1, 2019.

21 NCAC 39 .0802 COOPERATION WITH BOARD INQUIRY

A certificate holder shall respond to any inquiry made by the Board within 21 days from the date the inquiry was received by the certificate holder.

History Note: Authority G.S. 90A-74(6);
Eff. July 1, 2019.

21 NCAC 39 .0803 DELEGATING TO THIRD-PARTY SERVICE PROVIDERS

(a) If a certificate holder delegates service requested by a client to another certificate holder, he or she must give notice to the client on or before the date of service.

(b) The certificate holder who delegates service as set forth in this Rule shall continue to be responsible for the delegated service provided to the client.

History Note: Authority G.S. 90A-74(6);
Eff. July 1, 2019.

21 NCAC 39 .0901 PETITION FOR RULE-MAKING

(a) Any person submitting a petition to adopt, amend, or repeal a rule by the Board shall address a petition to the Chairman at the Board office as follows: Post Office Box 132, Lawsonville, North Carolina 27022.

(b) The petition shall contain the following:

- (1) for petitions to adopt or amend a rule, a draft of the proposed rule or amendment;
- (2) a statement of the effect of the requested rule change; and
- (3) the name and address of the petitioner.

(c) The petition may contain the following:

- (1) the reason for the proposal;
- (2) the effect of the new rule on existing rules; or
- (3) any data supporting the rule proposal.

History Note: Authority G.S. 90A-74; 150B-20;
Eff. July 1, 2019.

21 NCAC 39 .0902 REQUEST FOR DECLARATORY RULING

All requests for a declaratory ruling shall contain the following information:

- (1) the name, address, and telephone number of the person making the request;
- (2) the statute or rule to which the request relates; and
- (3) a statement describing the manner in which the person has been or may be aggrieved by the statute or rule.

If a hearing is desired, the request shall so state and shall include the reason a hearing is desired.

History Note: Authority G.S. 90A-74; 150B-4(a);
Eff. July 1, 2019.

21 NCAC 39 .0903 REFUSAL TO ISSUE DECLARATORY RULING

The Board shall refuse to issue a declaratory ruling under the following circumstances:

- (1) when the Board has issued a decision in a contested case with substantially similar facts;
- (2) when the facts underlying the request for a ruling on a rule were considered at the time of the adoption of the rule in question; or
- (3) when the subject matter of the request is involved in pending litigation in North Carolina.

History Note: Authority G.S. 90A-74; 150B-4;
Eff. July 1, 2019.

21 NCAC 39 .1005 ON-SITE WASTEWATER SYSTEM COMPONENTS

(a) When inspecting an on-site wastewater system the inspector shall inspect and describe the following in a report as set forth in Rule .1002 of this Chapter:

- (1) any part of the system located more than five feet from the primary structure that is part of the operations permit;
- (2) septic tanks;
- (3) pump tanks;
- (4) distribution devices;
- (5) dispersal fields;
- (6) treatment units;
- (7) control panels;
- (8) any other components required as part of on-site wastewater system permit, including drainage; and
- (9) any vegetation and grading with respect only to their effect on the condition of the system or system components.

(b) The inspector shall:

- (1) uncover tank lids and distribution devices so as to gain access, unless blocked as described in Rule .1004(b)(5) of this Section. The distribution box may remain covered if the inspector has an alternate method of observing its condition;
- (2) probe system components where deterioration is suspected;
- (3) report the methods used to inspect the on-site wastewater system;
- (4) open readily accessible and readily openable components as defined in Rule .1001 of this Chapter;
- (5) report signs of abnormal or harmful water entry into or out of the system or components; and

- (6) conduct the inspection using the rules promulgated under Article 11 of Chapter 130A in effect at the time of the initial construction or renovation of the system, whichever occurs later, and any subsequent installation or replacement of any system or component of the system.

(c) The inspector shall not be required to:

- (1) conduct dosing volume calculations;
- (2) evaluate soil conditions beyond saturation or ponding;
- (3) evaluate for the presence or condition of buried fuel storage tanks;
- (4) evaluate the system for proper sizing, design, or use of approved materials pursuant to Article 11 of Chapter 130A and the rules promulgated therefrom; or
- (5) perform a hydraulic load test on the system.

*History Note: Authority G.S. 90A-72; 90A-74; Eff. October 1, 2011;
Amended Eff. January 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. July 1, 2019.*

TITLE 25 - OFFICE OF STATE HUMAN RESOURCES

25 NCAC 01E .0704 COVERAGE

All North Carolina State Government employees and officers of the State, including elected officials, members of the General Assembly, and persons appointed to serve on a per diem, part-time or fee basis are covered under the State's self-insured workers' compensation program administered by the Office of State Human Resources.

*History Note: Authority G.S. 126-4; 126-4(10); 143-583; Eff. November 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. July 1, 2019.*

25 NCAC 01E .0705 ADMINISTRATION

(a) The Office of State Human Resources shall administer a self-insured workers' compensation program for workers' compensation claims arising in State agencies.

(b) The Office of State Human Resources self-insured workers' compensation program for State agencies shall:

- (1) Contract with vendor(s) for services for workers' compensation claims arising in State agencies;
- (2) Act as intermediary between vendor(s) and State agencies; and
- (3) Monitor contracted vendor(s) performance.

(c) Each State agency shall pay for workers' compensation expenditures for injuries arising out of and in the course of employment with that State agency.

(d) The Office of State Human Resources shall:

- (1) Monitor status of workers' compensation claims arising in State agencies;
- (2) Issue claim handling guidelines for workers' compensation claims arising in State agencies; and
- (3) Issue workers' compensation related educational materials for use in State agencies.

*History Note: Authority G.S. 126-4(10); 143-581; 143-583; Eff. November 1, 1987;
Amended Eff. October 1, 2004; April 1, 2001; August 1, 1998; September 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. July 1, 2019.*

This Section contains information for the meeting of the Rules Review Commission August 15, 2019 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
Brian P. LiVecchi

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
Ashley Snyder (919) 431-3081

RULES REVIEW COMMISSION MEETING DATES

August 15, 2019 September 19, 2019
October 17, 2019 November 21, 2019

AGENDA**RULES REVIEW COMMISSION**

THURSDAY, AUGUST 15, 2019 9:00 A.M.

1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 163A-159(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Board of Elections - 08 NCAC 10B .0101, .0102, .0103, .0104, .0105, .0106, .0107 (May)
 - B. Social Services Commission - 10A NCAC 06R .0101, .0102, .0201, .0302, .0304, .0305, .0401, .0403, .0501, .0502, .0503, .0504, .0506, .0508, .0509, .0601, .0801, .0802, .0804, .0806, .0902, .0904; 06S .0101, .0102, .0203, .0204, .0301, .0302, .0402, .0403, .0404, .0405, .0501, .0508; 06T .0201 (Reeder)
 - C. DHHS/ Division of Health Benefits - 10A NCAC 23G .0304 (Reeder)
 - D. Commission for the Blind - 10A NCAC 63C .0203, .0204, .0403, .0601 (Reeder)
 - E. Social Services Commission - 10A NCAC 67A .0101, .0103, .0105, .0106, .0107, .0108, .0201, .0202, .0203, .0204, .0205, .0206; 68 .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0202, .0203, .0204, .0205, .0206, .0208, .0301, .0302, .0303; 69 .0101, .0102, .0201, .0202, .0203, .0204, .0205, .0301, .0302, .0303, .0304, .0305, .0306, .0401, .0402, .0403, .0404, .0405, .0406, .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, .0601, .0602, .0603, .0604, .0605; 72 .0101, .0102, .0201, .0202, .0203, .0301 (May)
 - F. Department of Justice - 12 NCAC 02I .0213, .0306 (Reeder)
 - G. Environmental Management Commission - 15A NCAC 02B .0402, .0403, .0404, .0406, .0407, .0408, .0501, .0502, .0503, .0504, .0505, .0506, .0508, .0511; 02H .0101, .0102, .0103, .0105, .0106, .0107, .0108, .0109, .0111, .0112, .0113, .0114, .0115, .0116, .0117, .0118, .0120, .0121, .0124, .0125, .0127, .0138, .0139, .0140, .0141, .0142, .0143, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .1201, .1202, .1203, .1204, .1205, .1206 (May)
 - H. Environmental Management Commission - 15A NCAC 02C .0101, .0102, .0105, .0107, .0108, .0109, .0110, .0111, .0112, .0113, .0114, .0116, .0117, .0118, .0119, .0201, .0202, .0203, .0204, .0206, .0207, .0208, .0209, .0210, .0211, .0217, .0218, .0219, .0220, .0221, .0222, .0223, .0224, .0225, .0226, .0227, .0228, .0229, .0230, .0240, .0241, .0242 (Reeder)
 - I. Environmental Management Commission - 15A NCAC 02T .1601, .1602, .1604, .1605, .1606, .1607, .1608 (Reeder)
 - J. Coastal Resources Commission - 15A NCAC 07J .0409 (May)
 - K. Board of Dietetics/Nutrition - 21 NCAC 17 .0104, .0303 (Reeder)

- L. State Human Resources Commission - 25 NCAC 01E .0210, 01I .1702, .1805, .1902, .1903, .1905, .2003, .2105, .2302, .2303, .2304, .2305, .2306, .2307, .2310 (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between June 21, 2019 through July 22, 2019
- Department of Insurance (Reeder)
 - Alcoholic Beverage Control Commission (Snyder)
 - Alarm Systems Licensing Board (Reeder)
 - Environmental Management Commission 02B (May)
 - Environmental Management Commission 02D (Snyder)
 - Board of Architecture (Reeder)
 - Licensing Board for General Contractors (May)
 - Board of Electrolysis Examiners (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
- VII. Commission Business
- M. Periodic Review and Expiration of Existing Rules Readoption Schedule
- Next meeting: Thursday, September 19, 2019
-

Commission Review
Log of Permanent Rule Filings
June 21, 2019 through July 22, 2019

INSURANCE, DEPARTMENT OF

The rules in Chapter 8 are the engineering and building codes including the approval of school maintenance electricians (.0400); qualification board-limited certificate (.0500); qualification board-probationary certificate (.0600); qualification board-standard certificate (.0700); disciplinary actions and other contested matters (.0800); manufactured housing board (.0900); NC Home Inspector Licensure Board (.1000); home inspector standards of practice and code of ethics (.1100); disciplinary actions (.1200); home inspector continuing education (.1300); Manufactured Housing Board continuing education (.1400); and alternate designs and construction appeals (.1500).

<u>Definitions</u>	11	NCAC	08	.1601
Adopt*				
<u>Request for an Alternative Inspection</u>	11	NCAC	08	.1602
Adopt*				
<u>Qualified Marketplace Inspections</u>	11	NCAC	08	.1603
Adopt*				

ALCOHOLIC BEVERAGE CONTROL COMMISSION

The rules in Subchapter 15A concern organization rules: policies and procedures including general provisions (.0100); structure (.0200); publications, records, copies (.0300); rule-making (.0400); emergency rules (.0500); declaratory rulings (.0600); personnel policies: commission (.0700); adjudication: contested cases (.0800); fiscal rules for local boards (.0900); local abc board: personnel policies (.1000); local abc boards: relationship with state commission (.1100); openings and discontinuance of stores (.1200); storage and distribution of spirituous liquors: commercial transportation (.1300); purchase of alcoholic beverages by local boards (.1400); pricing of spirituous liquor (.1500); warehouse storage of spirituous liquors (.1600); retail sales of alcoholic beverages (.1700); purchase transportation permits for individuals and mixed beverages permittees (.1800); sales of liquor to mixed beverages permittees (.1900); local board training (.2000); distillery permit holders' sale of spirituous liquor distilled on premises to visitors of the distillery for consumption off the premises (.2100); special one-time permits (.2200); and homemade wine and malt beverage events (.2300).

<u>Purpose</u>	14B	NCAC	15A	.0101
Amend*				
<u>Location, Addresses and Business Hours</u>	14B	NCAC	15A	.0102

Amend*				
<u>Definitions</u>	14B	NCAC	15A	.0103
Amend*				
<u>Commission Chairman</u>	14B	NCAC	15A	.0201
Amend*				
<u>Commission Meetings</u>	14B	NCAC	15A	.0202
Amend*				
<u>Administrative Functions</u>	14B	NCAC	15A	.0203
Amend*				
<u>Legal Functions</u>	14B	NCAC	15A	.0204
Amend*				
<u>Distribution, Inspection and Copies of ABC Laws</u>	14B	NCAC	15A	.0301
Amend*				
<u>Fee for Computer Service</u>	14B	NCAC	15A	.0302
Amend*				
<u>Petition for Adoption of Rules</u>	14B	NCAC	15A	.0401
Amend*				
<u>Administrative Action</u>	14B	NCAC	15A	.0402
Amend*				
<u>Notice of Rule-making Hearings; Mailing List</u>	14B	NCAC	15A	.0403
Amend*				
<u>Rule-making Hearing</u>	14B	NCAC	15A	.0404
Amend*				
<u>Revocation or Suspension of Permit</u>	14B	NCAC	15A	.0501
Amend*				
<u>Issuance: Grounds</u>	14B	NCAC	15A	.0601
Amend*				
<u>Request for Declaratory Ruling</u>	14B	NCAC	15A	.0602
Amend*				
<u>Withdrawal of Request for Declaratory Ruling</u>	14B	NCAC	15A	.0605
Amend*				
<u>Disciplinary Action of Employee</u>	14B	NCAC	15A	.0701
Repeal*				
<u>Notice of Alleged Violation</u>	14B	NCAC	15A	.0801
Amend*				
<u>Article 12 Hearings; Final Administrative Decision; Order</u>	14B	NCAC	15A	.0805
Amend*				

The rules in Subchapter 15C concern industry members, retail/industry member relationships, ship chandlers, air carriers, and fuel alcohol including definitions and application procedures (.0100); product approvals, listing procedures and product lists (.0200); packaging and labeling of malt beverages and wine (.0300); standards of identity for wine containers (.0400); general provisions for industry members (.0500); sales and deliveries of malt beverages and wine (.0600); alcoholic beverages, retailer/industry member relationship and trade practices (.0700); ships chandler's permit (.0800); distillers and representatives (.0900); air carriers (.1000); fuel alcohol permits (.1100); administrative action by commission (.1200); and special event permits (.1300).

<u>Definitions</u>	14B	NCAC	15C	.0101
Repeal*				

ALARM SYSTEMS LICENSING BOARD

The rules in Chapter 17 are from the N.C. Alarm Systems Licensing Board and cover the organization and general provisions (.0100); provisions for licensees (.0200); provisions for registrants (.0300); the recovery fund (.0400); and continuing education for licensees (.0500).

<u>Application for License</u>	14B	NCAC	17	.0201
Amend*				
<u>Fees for Licenses</u>	14B	NCAC	17	.0203
Amend*				
<u>Fees for Licenses</u>	14B	NCAC	17	.0203
Amend*				
<u>Renewal of License</u>	14B	NCAC	17	.0204
Amend*				
<u>Company Business License</u>	14B	NCAC	17	.0209
Amend*				
<u>Application for Registration</u>	14B	NCAC	17	.0301
Amend*				
<u>Fees for Registration</u>	14B	NCAC	17	.0302
Amend*				
<u>Renewal or ReRegistration of Registration</u>	14B	NCAC	17	.0306
Amend*				
<u>Required Continuing Education Hours</u>	14B	NCAC	17	.0502
Amend*				
<u>Recording and Reporting Continuing Education Credits</u>	14B	NCAC	17	.0505
Amend*				

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards used to classify the waters of the state (.0200); stream classifications (.0300); effluent limitations (.0400); monitoring and reporting requirements (.0500); and water quality management plans (.0600).

<u>General Procedures</u>	15A	NCAC	02B	.0101
Readopt with Changes*				
<u>Analytical Procedures</u>	15A	NCAC	02B	.0103
Readopt with Changes*				
<u>Considerations/Assigning/Implementing Water Supply Classi...</u>	15A	NCAC	02B	.0104
Readopt with Changes*				
<u>Considerations/Assigning Classifications for Primary Recr...</u>	15A	NCAC	02B	.0106
Readopt/Repeal*				
<u>Considerations in Assigning the Shellfishing Area Classif...</u>	15A	NCAC	02B	.0108
Readopt/Repeal*				
<u>Considerations for Federally-Listed Threatened or Endange...</u>	15A	NCAC	02B	.0110
Readopt with Changes*				
<u>Antidegradation Policy</u>	15A	NCAC	02B	.0201
Readopt with Changes*				
<u>Definitions</u>	15A	NCAC	02B	.0202
Readopt with Changes*				
<u>Protection of Waters Downstream of Receiving Waters</u>	15A	NCAC	02B	.0203
Readopt without Changes*				
<u>Location of Sampling Sites and Mixing Zones</u>	15A	NCAC	02B	.0204
Readopt with Changes*				
<u>Natural Characteristics Outside Standards Limits</u>	15A	NCAC	02B	.0205

Readopt without Changes*				
<u>Flow Design Criteria for Effluent Limitations</u>	15A	NCAC	02B	.0206
Readopt with Changes*				
<u>Standards for Toxic Substances and Temperature</u>	15A	NCAC	02B	.0208
Readopt without Changes*				
<u>Fresh Surface Water Quality Standards for Class C Waters</u>	15A	NCAC	02B	.0211
Readopt with Changes*				
<u>Fresh Surface Water Quality Standards for Class WS-I Waters</u>	15A	NCAC	02B	.0212
Readopt with Changes*				
<u>Fresh Surface Water Quality Standards for Class WS-II Waters</u>	15A	NCAC	02B	.0214
Readopt with Changes*				
<u>Fresh Surface Water Quality Standards for Class WS-III Wa...</u>	15A	NCAC	02B	.0215
Readopt with Changes*				
<u>Fresh Surface Water Quality Standards for Class WS-IV Waters</u>	15A	NCAC	02B	.0216
Readopt with Changes*				
<u>Fresh Surface Water Quality Standards for Class WS-V Waters</u>	15A	NCAC	02B	.0218
Readopt with Changes*				
<u>Fresh Surface Water Quality Standards for Class B Waters</u>	15A	NCAC	02B	.0219
Readopt with Changes*				
<u>Tidal Salt Water Quality Standards for Class SC Waters</u>	15A	NCAC	02B	.0220
Readopt with Changes*				
<u>Tidal Salt Water Quality Standards for Class SA Waters</u>	15A	NCAC	02B	.0221
Readopt with Changes*				
<u>Tidal Salt Water Quality Standards for Class SB Waters</u>	15A	NCAC	02B	.0222
Readopt with Changes*				
<u>Water Quality Standards for Nutrient Sensitive Waters</u>	15A	NCAC	02B	.0223
Readopt with Changes*				
<u>Water Quality Standards for High Quality Waters</u>	15A	NCAC	02B	.0224
Readopt with Changes*				
<u>Water Quality Standards for Outstanding Resource Waters</u>	15A	NCAC	02B	.0225
Readopt with Changes*				
<u>Exemptions From Surface Water Quality Standards</u>	15A	NCAC	02B	.0226
Readopt without Changes*				
<u>Water Quality Management Plans</u>	15A	NCAC	02B	.0227
Readopt without Changes*				
<u>Effluent Channels</u>	15A	NCAC	02B	.0228
Readopt without Changes*				
<u>Activities Deemed to Comply with Wetlands Standards</u>	15A	NCAC	02B	.0230
Readopt without Changes*				
<u>Wetland Standards</u>	15A	NCAC	02B	.0231
Readopt with Changes*				
<u>Classifications: General</u>	15A	NCAC	02B	.0301
Readopt with Changes*				
<u>Hiwassee River Basin</u>	15A	NCAC	02B	.0302
Readopt with Changes*				
<u>Little Tennessee River Basin and Savannah River Drainage ...</u>	15A	NCAC	02B	.0303
Readopt with Changes*				
<u>French Broad River Basin</u>	15A	NCAC	02B	.0304
Readopt with Changes*				
<u>Watauga River Basin</u>	15A	NCAC	02B	.0305
Readopt with Changes*				
<u>Broad River Basin</u>	15A	NCAC	02B	.0306

Readopt with Changes*				
<u>New River Basin</u>	15A	NCAC	02B	.0307
Readopt with Changes*				
<u>Catawba River Basin</u>	15A	NCAC	02B	.0308
Readopt with Changes*				
<u>Yadkin-Pee Dee River Basin</u>	15A	NCAC	02B	.0309
Readopt with Changes*				
<u>Lumber River Basin</u>	15A	NCAC	02B	.0310
Readopt with Changes*				
<u>Cape Fear River Basin</u>	15A	NCAC	02B	.0311
Readopt with Changes*				
<u>White Oak River Basin</u>	15A	NCAC	02B	.0312
Readopt with Changes*				
<u>Roanoke River Basin</u>	15A	NCAC	02B	.0313
Readopt with Changes*				
<u>Chowan River Basin</u>	15A	NCAC	02B	.0314
Readopt with Changes*				
<u>Neuse River Basin</u>	15A	NCAC	02B	.0315
Readopt with Changes*				
<u>Tar-Pamlico River Basin</u>	15A	NCAC	02B	.0316
Readopt with Changes*				
<u>Pasquotank River Basin</u>	15A	NCAC	02B	.0317
Readopt with Changes*				
<u>Water Supply Watershed Protection Program: Definitions</u>	15A	NCAC	02B	.0621
Amend*				
<u>Water Supply Watershed Protection Program: NonPoint Sourc...</u>	15A	NCAC	02B	.0624
Amend*				

The rules in Subchapter 2D are air pollution control requirements including definitions and references (.0100); air pollution sources (.0200); air pollution emergencies (.0300); ambient air quality standards (.0400); emission control standards (.0500); air pollutants monitoring and reporting (.0600); complex sources (.0800); volatile organic compounds (.0900); motor vehicle emission control standards (.1000); control of toxic air pollutants (.1100); control of emissions from incinerators (.1200); oxygenated gasoline standard (.1300); nitrogen oxide standards (.1400); general conformity for federal actions (.1600); emissions at existing municipal solid waste landfills (.1700); control of odors (.1800); open burning (.1900); transportation conformity (.2000); risk management program (.2100); special orders (.2200); emission reduction credits (.2300); clean air interstate rules (.2400); mercury rules for electric generators (.2500); and source testing (.2600).

<u>Particulates from Fugitive Dust Emission Sources</u>	15A	NCAC	02D	.0540
Readopt with Changes*				
<u>Definitions</u>	15A	NCAC	02D	.1801
Readopt without Changes*				
<u>Control of Odors from Animal Operations Using Liquid Anim...</u>	15A	NCAC	02D	.1802
Readopt with Changes*				
<u>Best Management Plans for Animal Operations</u>	15A	NCAC	02D	.1803
Readopt without Changes*				
<u>Reporting Requirements for Animal Operations</u>	15A	NCAC	02D	.1804
Readopt without Changes*				
<u>Control and Prohibition of Odorous Emissions</u>	15A	NCAC	02D	.1806
Readopt with Changes*				
<u>Determination of Maximum Feasible Controls for Odorous Em...</u>	15A	NCAC	02D	.1807
Readopt without Changes*				
<u>Evaluation of New or Modified Swine Farms</u>	15A	NCAC	02D	.1808
Readopt without Changes*				

<u>Open Burning: Purpose: Scope</u> Readopt without Changes*	15A	NCAC	02D	.1901
<u>Definitions</u> Readopt with Changes*	15A	NCAC	02D	.1902
<u>Open Burning Without an Air Quality Permit</u> Readopt with Changes*	15A	NCAC	02D	.1903
<u>Air Curtain Incinerators</u> Readopt with Changes*	15A	NCAC	02D	.1904
<u>Regional Office Locations</u> Amend*	15A	NCAC	02D	.1905
<u>Delegation to County Governments</u> Readopt without Changes*	15A	NCAC	02D	.1906
<u>Multiple Violations Arising from a Single Episode</u> Readopt without Changes*	15A	NCAC	02D	.1907

ARCHITECTURE, BOARD OF

The rules in Chapter 2 are from the Board of Architecture and include general provisions (.0100); practice of architecture (.0200); examination procedures (.0300); rules, petitions, and hearings (.0400); declaratory rulings (.0500); administrative hearings: procedures (.0600); administrative hearings: decisions and related rights (.0700); judicial review (.0800); and continuing education (.0900).

<u>Unauthorized Practice</u> Repeal*	21	NCAC	02	.0211
---	----	------	----	-------

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>Definitions</u> Adopt*	21	NCAC	12	.0201
<u>Classification</u> Amend*	21	NCAC	12	.0202
<u>License Limitations: Eligibility</u> Amend*	21	NCAC	12	.0204
<u>Qualifier</u> Amend*	21	NCAC	12	.0205
<u>Application for Licensure</u> Amend*	21	NCAC	12	.0303
<u>Character References</u> Amend*	21	NCAC	12	.0308
<u>Subject Matter</u> Adopt*	21	NCAC	12	.0402
<u>License Granted</u> Amend*	21	NCAC	12	.0501
<u>Renewal of License</u> Amend*	21	NCAC	12	.0503
<u>Application for Payment</u> Amend*	21	NCAC	12	.0903

ELECTROLYSIS EXAMINERS, BOARD OF

The rules in Chapter 19 are from the Board of Electrolysis Examiners and include general provisions (.0100); application procedures (.0200); administrative law procedures (.0300); sanitation, equipment and supplies (.0400); schools (.0600); and continuing education (.0700).

<u>Fees</u>	21	NCAC	19	.0201
Readopt with Changes*				
<u>Application for Licensure</u>	21	NCAC	19	.0202
Readopt with Changes*				
<u>Application for Renewal, Reinstatement, or Reactivation o...</u>	21	NCAC	19	.0203
Readopt without Changes*				
<u>Application for Renewal, Reinstatement, or Reactivation o...</u>	21	NCAC	19	.0204
Readopt without Changes*				
<u>Offices</u>	21	NCAC	19	.0403
Readopt with Changes*				
<u>Environmental Control and Housekeeping</u>	21	NCAC	19	.0408
Readopt with Changes*				
<u>Client Evaluation</u>	21	NCAC	19	.0409
Readopt with Changes*				
<u>Hepatitis B Virus (HBV) Vaccination</u>	21	NCAC	19	.0410
Readopt without Changes*				
<u>Standard Precautions for Disease Control and Prevention</u>	21	NCAC	19	.0412
Readopt with Changes*				
<u>Supervising Physician</u>	21	NCAC	19	.0501
Readopt with Changes*				
<u>Curriculum</u>	21	NCAC	19	.0601
Readopt without Changes*				
<u>Application for and Renewal of School Certification</u>	21	NCAC	19	.0602
Readopt without Changes*				
<u>School Equipment</u>	21	NCAC	19	.0608
Readopt without Changes*				
<u>Equipment/Student and Teacher Ratio</u>	21	NCAC	19	.0613
Readopt without Changes*				
<u>Equipment Endorsements and Sales Prohibited</u>	21	NCAC	19	.0619
Readopt without Changes*				
<u>Continuing Education Requirements, License Renewal, Reins...</u>	21	NCAC	19	.0701
Readopt without Changes*				
<u>Board Approval of Courses</u>	21	NCAC	19	.0702
Readopt without Changes*				
<u>Computation of Continuing Education Units</u>	21	NCAC	19	.0703
Readopt without Changes*				

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>			
18	CPS	01781	6/19/2019	Danielle Carter	v.	Department of Public Safety Victim Services	Elkins
18	CPS	04205	6/10/2019	Tamer Sorial	v.	NC Department of Public Safety	Elkins
18	CPS	06487	6/18/2019	Jim H Roberts	v.	NC DPS NC Crime Victims Compensation Commission	Overby
19	CPS	00658	6/19/2019	James Douglas Kirby	v.	NDPS NC Crime Victims Compensation Commission	Malherbe
19	DHR	01710	6/27/2019	Agustin Del Real (Owner) Luz Del Real (Owner) Vicente Del Real (Owner)	v.	Nutrition Services Branch WIC Vender Unit	Malherbe
18	DOJ	04462	6/4/2019	Douglas Eugene Harwell	v.	NC Department of Justice, Company Police Program	Ward
18	DOJ	04479	6/3/2019	David Price	v.	NC Sheriffs Education and Training Standards Commission	Ward
18	DOJ	07493	6/14/2019	Matthew Jason Lee	v.	NC Sheriffs Education and Training Standards Commission	Overby
19	DOJ	01471	6/20/2019	Janet Davidson Barringer	v.	NC Private Protective Services Board	Jacobs
19	DOJ	01635	6/21/2019	Semper Fidelis Security Services LLC and Dakota Jermaine Covil Qualifying Agency		NC Private Protective Services Board	Jacobs

CONTESTED CASE DECISIONS

18	OSP	04611	12/14/2018; 6/7/2019	Natalynn P Tollison	v.	North Carolina State University and North Carolina State University College of Veterinary Medicine	Ward
19	OSP	00461	6/24/2019	Marvin Franklin	v.	NC Department of Public Safety	Lassiter
18	SOS	05952	6/7/2019	Tyrell Elliott	v.	State of North Carolina Department of the Secretary of State	Elkins
19	SOS	01708	6/27/2019	Kurtis Lee Vanscoy	v.	Secretary of State Notary Division	Lassiter
				<u>Unpublished</u>			
19	ABC	00356	6/4/2019	NC Alcoholic Beverage Control Commission	v.	Lorette Dempsey Maiori T/A Rens Js Lounge	Overby
18	CPS	06549	6/27/2019	Kyla E Millar	v.	Crime Victims Compensation Commission	Lassiter
19	CPS	01745	6/4/2019	Aaron M Little	v.	NC Department of Public Safety Victim Services Liddie Shrophire	Jacobs
18	CSE	06236	6/12/2019	George L Bullock Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
18	CSE	06419	6/25/2019	Rodney D Gooch	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Elkins
18	CSE	06546	6/12/2019	Frederick Dixon	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
18	CSE	06674	6/4/2019	Jon Lofthouse	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinheimer
18	CSE	06766	6/18/2019	Rodrick Barnwell	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
18	CSE	06864	6/4/2019	Curtis Joe Davis	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
18	CSE	06964	6/19/2019	Brooklyn Cabbil	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
18	CSE	07216	6/19/2019	Mour Mamadou Diop	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
18	CSE	07326	6/4/2019	Jeremy Jerod Collins	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby

CONTESTED CASE DECISIONS

18	CSE	07339	6/4/2019	Derrick A Gee	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinheimer
18	CSE	07340	6/5/2019	Chauncey Anderson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinheimer
18	CSE	07357	6/4/2019	June Pressley	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
18	CSE	07381	6/18/2019	Kelvin Jamison	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
18	CSE	07386	6/19/2019	Paul Ghiraldi	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
18	CSE	07387	6/3/2019	Kirk F Foster	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
18	CSE	07421	6/10/2019	Anthony L Hargrove	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
19	CSE	00466	6/11/2019	Gwendolyn B Jenness	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
19	CSE	00834	6/18/2019	Sean J Harstine	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
19	CSE	01098	6/10/2019	Micheal T Holloway	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
19	CSE	01107	6/11/2019	Bobby Collis	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Lassiter
19	CSE	01529	6/26/2019	Daniel L Brannon	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
19	CSE	01864	6/5/2019	Kenya N Halterman	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
18	DHR	07286	6/10/2019	Jennifer Yvonne Powell	v.	North Carolina Health Care Registry	Elkins
19	DHR	00829	6/7/2019	Shannon Marie Marchi	v.	NC Department of Health and Human Services Lisa G Corbett	Lassiter

CONTESTED CASE DECISIONS

19	DHR	01080	6/18/2019	Robert Simmons	v.	NC Department of Health and Human Services, Division of Health Service Regulation	May
19	DHR	01111	6/13/2019	Rebecca Parks Health Care Registry	v.	Lisa G Corbett Department of Health & Human Services	Bawtinhimer
19	DHR	01310	6/13/2019	Ray Felton Executive Officer The Blacknall Felton Group LLC	v.	Megan Lamphere MSW Chief Adultcare Licensure Section NC Department of Health and Human Services and Division of Health Service Regulation NC Department of Health and Human Services	Bawtinhimer
19	DHR	01311	6/3/2019	Ray Felton Executive Officer Ther Blacknall Felton Group LLC	v.	Megan Lamphere MSW Chief Adultcare Licensure Section NC Department of Health and Human Services and Division of Health Service Regulation NC Department of Health and Human Services	Overby
19	DHR	01324; 01327	6/4/2019	Thomas L Ollis Jr	v.	Burke County DSS	Bawtinhimer
19	DHR	01596	6/11/2019	Kristen Howard	v.	Healthcare Personal Registry	Lassiter
19	DHR	01638	6/13/2019	Leicester Heights Family Care Inc Martha A Plemmons	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Bawtinhimer
19	DHR	01643	6/13/2019	Kimberly Jenkins	v.	NC Department of Health and Human Services, Division of Health Service Regulation Health Care Personnel Registry	Overby
19	DHR	01980	6/5/2019	Sayed H Hosseini Custom Paint & Remodeling Inc	v.	NC Department of Health and Human Services	Jacobs
19	DHR	02179	6/5/2019	Eugenie Caroline Aurelie Vedrine	v.	NC Department of Health and Human Services	Jacobs
19	DHR	02191	6/10/2019	Timeka Mebane Lucas	v.	Department of Health and Human Services, Division of Health Service Regulation	May
19	DHR	02232	6/10/2019	Delilah A Cucci	v.	The Department of Health and Human Services	May
19	DHR	02234	6/13/2019	Tracey Deputy	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
19	DHR	02280	6/24/2019	Jamie Hudson	v.	Health Care Personnel Registry	May
19	DHR	02376	6/11/2019	Amy Lloyd	v.	NC Department of Health and Human Services	May
19	DHR	02484	6/24/2019	Keisa Faye Corado	v.	Department of Health and Human Services Division of Health Service Regulation	May
19	DHR	02589	6/4/2019	Basem K Sara DBA Tommys Mini Mart	v.	NC Dept of Health & Human Services	Bawtinhimer
19	DHR	02753	6/13/2019	Kandice T Stigger	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Elkins
18	DOJ	07361	6/4/2019	Albert Lee Davis	v.	NC Criminal Justice Education and Training Standards Commission	Jacobs

CONTESTED CASE DECISIONS

18	DOJ	07362	6/21/2019	Jatobia L Jordan	v.	NC Criminal Justice Education and Training Standards Commission	Ward
19	DSC	02193	6/7/2019	Barbra Stanley	v.	Brunswick County DSS Health and Human Services Medicaid	Elkins
19	INS	01876	6/4/2019	Larry S Offenhauser	v.	State Health Plan of North Carolina	Jacobs
19	INS	01983	6/4/2019	Wayman Anthony Bunch Jr	v.	North Carolina State Health Plan Department of State Treasurer	Jacobs
19	MIS	01981	6/4/2019	Kristie L Sluder Foster parent	v.	NC Administrative Offices of the Courts Division of the Guardian Ad Litem	Sutton
19	OSP	01616	6/12/2019	Sabrina Murchinson	v.	Bladen County Department of Social Services	Lassiter
19	OSP	02562	6/18/2019	Mary Simmons	v.	Cumberland County Department of Social Services	Sutton