

NORTH CAROLINA REGISTER

VOLUME 34 • ISSUE 14 • Pages 1284 – 1333

January 15, 2020

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PUBLISHED BY

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Contact List for Rulemaking Questions or Concerns

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

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2020 – December 2020

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
34:13	01/02/20	12/06/19	01/17/20	03/02/20	03/20/20	04/16/20	05/01/20	09/28/20
34:14	01/15/20	12/19/19	01/30/20	03/16/20	03/20/20	04/16/20	05/01/20	10/11/20
34:15	02/03/20	01/10/20	02/18/20	04/03/20	04/20/20	05/21/20	06/01/20	10/30/20
34:16	02/17/20	01/27/20	03/03/20	04/17/20	04/20/20	05/21/20	06/01/20	11/13/20
34:17	03/02/20	02/10/20	03/17/20	05/01/20	05/20/20	06/18/20	07/01/20	11/27/20
34:18	03/16/20	02/24/20	03/31/20	05/15/20	05/20/20	06/18/20	07/01/20	12/11/20
34:19	04/01/20	03/11/20	04/16/20	06/01/20	06/22/20	07/16/20	08/01/20	12/27/20
34:20	04/15/20	03/24/20	04/30/20	06/15/20	06/22/20	07/16/20	08/01/20	01/10/21
34:21	05/01/20	04/09/20	05/16/20	06/30/20	07/20/20	08/20/20	09/01/20	01/26/21
34:22	05/15/20	04/24/20	05/30/20	07/14/20	07/20/20	08/20/20	09/01/20	02/09/21
34:23	06/01/20	05/08/20	06/16/20	07/31/20	08/20/20	09/17/20	10/01/20	02/26/21
34:24	06/15/20	05/22/20	06/30/20	08/14/20	08/20/20	09/17/20	10/01/20	03/12/21
35:01	07/01/20	06/10/20	07/16/20	08/31/20	09/21/20	10/15/20	11/01/20	03/28/21
35:02	07/15/20	06/23/20	07/30/20	09/14/20	09/21/20	10/15/20	11/01/20	04/11/21
35:03	08/03/20	07/13/20	08/18/20	10/02/20	10/20/20	11/19/20	12/01/20	04/30/21
35:04	08/17/20	07/27/20	09/01/20	10/16/20	10/20/20	11/19/20	12/01/20	05/14/21
35:05	09/01/20	08/11/20	09/16/20	11/02/20	11/20/20	12/17/20	01/01/21	05/29/21
35:06	09/15/20	08/24/20	09/30/20	11/16/20	11/20/20	12/17/20	01/01/21	06/12/21
35:07	10/01/20	09/10/20	10/16/20	11/30/20	12/21/20	01/21/21	02/01/21	06/28/21
35:08	10/15/20	09/24/20	10/30/20	12/14/20	12/21/20	01/21/21	02/01/21	07/12/21
35:09	11/02/20	10/12/20	11/17/20	01/04/21	01/20/21	02/18/21	03/01/21	07/30/21
35:10	11/16/20	10/23/20	12/01/20	01/15/21	01/20/21	02/18/21	03/01/21	08/13/21
35:11	12/01/20	11/05/20	12/16/20	02/01/21	02/22/21	03/18/21	04/01/21	08/28/21
35:12	12/15/20	11/20/20	12/30/20	02/15/21	02/22/21	03/18/21	04/01/21	09/11/21

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.



NORTH CAROLINA
STATE BOARD OF ELECTIONS

Mailing Address:
P.O. Box 27255,
Raleigh, NC 27611
(919) 814-0700 or
(866) 522-4723
Fax: (919) 715-0135

Ms. Abbie Lane
Committee to Elect Abbie Lane
6061 NC 33 NW
Tarboro, NC 27886

November 12, 2019

Re: Request for an Advisory Opinion under N.C.G.S. § 163-278.23 regarding
the use of contributions for the payment of a salary to the candidate

Dear Ms. Lane,

Thank you for contacting our office. You asked whether a candidate for a North Carolina office could draw a salary from campaign contributions. Based on the text and structure of the North Carolina campaign finance laws this would be an impermissible use of candidate committee funds. North Carolina campaign finance laws are different than federal laws and regulations, which specifically permit paying a salary to the candidate.

North Carolina law limits a candidate's use of contributions to the following nine permissible uses outlined in N.C.G.S. § 163-278.16B:

- (a) A candidate or candidate campaign committee may use contributions only for the following purposes:
- (1) Expenditures resulting from the campaign for public office by the candidate or candidate's campaign committee.
 - (2) Expenditures resulting from holding public office.
 - (3) Donations to an organization described in section 170(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 170(c)), provided that the candidate or the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization.
 - (4) Contributions to a national, State, or district or county committee of a political party or a caucus of the political party or an affiliated party committee.
 - (5) Contributions to another candidate or candidate's campaign committee.
 - (6) To return all or a portion of a contribution to the contributor.
 - (7) Payment of any penalties against the candidate or candidate's campaign committee for violation of this Article imposed by a board of elections or a court of competent jurisdiction.
 - (8) Payment to the Escheat Fund established by Chapter 116B of the General Statutes.

- (9) Legal expense donation not in excess of four thousand dollars (\$4,000) per calendar year to a legal expense fund established pursuant to Article 26 of this Chapter.

A salary is “an agreed compensation for services . . . paid at regular intervals on a yearly basis, as distinguished from an hourly basis.” BLACK’S LAW DICTIONARY (11th ed. 2019). It is a method of compensating an individual for services rendered.

There is no part of N.C.G.S. § 163-278.16B that authorizes a candidate to pay himself or herself for his or her own “services” to the campaign (his or her own physical or mental efforts for the campaign or for holding public office).

North Carolina law differs from federal law, which grants federal candidates broad authority to use contributions for a wider variety of purposes. Specifically, 52 U.S.C. § 30114 lists among its permitted uses:

- (a) A contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—
 - (1) for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual;
 - (2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;
 - (3) for contributions to an organization described in section 170(c) of title 26;
 - (4) for transfers, without limitation, to a national, State, or local committee of a political party;
 - (5) for donations to State and local candidates subject to the provisions of State law; or
 - (6) for any other lawful purpose unless prohibited by subsection (b) of this section.

This final provision in (a)(6) is a broad grant enabling federal candidates to use contributions for any lawful purpose not prohibited by subsection (b), which states that contributions or donations “shall not be converted by any person to personal use.” 52 U.S.C. § 30114.

The FEC promulgated rules to clarify the definition of personal use. Specifically, 11 C.F.R. § 113.1(g) defines personal use as “any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate’s campaign or duties as a Federal officeholder.” The rule then gives a non-exhaustive list of examples of impermissible uses of candidate funds. One use prohibited in 11 C.F.R. § 113.1(g)(1)(i)(I) is for “[s]alary payments by a candidate’s principal campaign to a candidate *in excess of* the lesser of: the minimum salary paid to a Federal officeholder holding the Federal office that the candidate seeks; or the

earned income that the candidate received during the year prior to becoming a candidate” (emphasis added). This subpart explicitly provides that a candidate for federal office may draw a salary from that candidate’s campaign contributions, subject to certain limits related to the amount and the timing of the election.

North Carolina has no provision similar to the “other lawful purpose” in (a)(6) that would permit the payment of a salary to state candidates in North Carolina and support the development of rules similar to those promulgated by the FEC. Again, candidates for North Carolina office may use contributions only for the purposes listed in N.C.G.S. § 163-278.16B.

The opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and North Carolina Administrative Code.

Sincerely,



Karen Brinson Bell
Executive Director
North Carolina State Board of Elections

Cc: Molly Masich, Codifier of Rules

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

Commission, please call a Commission staff attorney at 919-431-3000.

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Parks and Recreation Authority intends to amend the rule cited as 07 NCAC 13K .0103, readopt with substantive changes the rules cited as 07 NCAC 13K .0106, .0108, .0109, and readopt without substantive changes the rules cited as 07 NCAC 13K .0102, .0105, .0107, and .0110.

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

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

Proposed Effective Date: May 1, 2020

Public Hearing:

Date: February 12, 2020

Time: 10:00 a.m.

Location: Nature Research Center, 121 W. Jones Street, Rm. 2515, Raleigh, NC 27603

Reason for Proposed Action: *Most of these rules are proposed for readoption as part of the existing rules review process. All proposed rules are necessary to carry out the functions of the Parks and Recreation Authority.*

Comments may be submitted to: Nathaniel Halubka, 1615 Mail Service Center, Raleigh, NC 27603; email nate.halubka@ncparks.gov

Comment period ends: March 16, 2020

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

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

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

CHAPTER 13 - PARKS AND RECREATION AREA RULES

SUBCHAPTER 13K - PARKS AND RECREATION TRUST FUND GRANTS FOR LOCAL GOVERNMENT

SECTION .0100 - GENERAL PROVISIONS

07 NCAC 13K .0102 ELIGIBLE APPLICANTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

07 NCAC 13K .0103 FUNDING CYCLE

Annual funding schedule dates shall be the following:

- (1) An announcement letter describing the funding schedule and how to apply shall be mailed to all eligible applicants by November 1. This information shall be made available to other interested parties who contact the Department of Natural and Cultural Resources (Department) at: NC Division of Parks and Recreation, 1615 MSC, Raleigh, North Carolina 27699-1615 as well as on the following website: <http://www.ncparks.gov/partf>.
- (2) Local governments shall not request more than five hundred thousand dollars (\$500,000) in PARTF assistance with each application.
- (3) Applications shall be received by the Department or its designee or postmarked no later than ~~5:00 p.m.~~ of the deadline date stated in the announcement letter for the current grant cycle pursuant to Item (1) of this Rule. The Parks and Recreation Authority will set the deadline date for between January 31 and May 30. If the deadline falls on a weekend or holiday, applications shall be received by the Department or postmarked no later than ~~5:00 p.m.~~ on the following business day.
- (4) The Authority shall meet within 180 days of the application deadline to select projects for funding.

Authority G.S. 143B-135.56; 143B-135.200.

07 NCAC 13K .0105 EVALUATION OF APPLICATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

07 NCAC 13K .0106 GRANT AGREEMENT

- (a) Upon Authority approval, a written agreement shall be executed between the grant recipient(s) and the Department.
- (b) The agreement shall define the Department's and grant recipient's responsibilities and obligations, the project period, project scope and the amount of grant assistance.
- (c) The approved application and support documentation shall become a part of the grant agreement.
- (d) State Clearinghouse environmental review comments made as a result of State Environmental Protection Act (SEPA) application review requirements shall be addressed by the applicant prior to execution of the project agreement. Projects judged to have a significant environmental impact shall submit an environmental assessment as required by SEPA.
- (e) The grant agreement may be amended upon mutual consent and approval by the Department and the grant recipient(s). The grant recipient(s) shall submit a written request to the Department. The Department shall approve the amendment if local circumstances justify the amendment request.
- (f) Projects may not begin until the Department and grant recipient(s) sign the agreement unless a waiver has been requested by the applicant in writing and approved by the Authority or its executive committee. Waivers may be granted only for land acquisition projects requiring action prior to the anticipated signing of the agreement. A waiver shall be in effect for ~~18~~ 24 months from the date of approval. A project receiving a waiver shall not receive preferential treatment in funding decisions.
- (g) Following execution of the grant agreement, the Department shall reimburse the grant recipient for expenditures related to the project scope. All reimbursements shall be approved by the Department and shall total an amount that is less than or equal to the grant amount. The Department shall approve reimbursement requests for expenditures that are related to the project scope and occur during the project period. This provision is effective after the 2002-03 grant cycle.
- (h) Complete accounting records including a certified project data sheet and performance report verifying eligible costs shall be submitted by the grant recipient(s) to the Department for approval prior to or at the time of the close-out inspection. The Department shall approve the accounting when the records are consistent with the project agreement and budget.

Authority G.S. 143B-135.66.

07 NCAC 13K .0107 MATCHING REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

07 NCAC 13K .0108 ELIGIBLE PROJECTS AND COSTS

- (a) PARTF grants are awarded to grantees for projects that are for the sole purpose of providing local park and recreation opportunities to the public. Grantees may receive funds for the following types of projects:

- (1) Acquisition. Fee simple acquisition of real property for future recreational development and to protect areas with natural or scenic resources.
 - (A) Grantees acquiring property for recreation development have up to five years from when the Authority and the applicant sign the grant agreement to begin developing recreation facilities.
 - (B) Grantees acquiring property to protect areas with natural or scenic resources must open these areas to the general public to the extent that the resources will not be impaired.
- (2) Development. Projects for the construction, expansion, and renovation/repair of the following:
 - (A) Primary facilities including outdoor and indoor recreation facilities. Examples include camping facilities, picnic facilities, sports and playfields, trails, swimming facilities, boating/fishing facilities, spectator facilities, and gymnasiums.
 - (B) Support facilities and improvements such as roads, parking areas, accessibility features, utilities, landscaping, and other infrastructure projects, that would have little or no recreational value without the primary recreation facilities.
- (b) Other criteria for determining eligible projects and costs include:
 - (1) Only development on or acquisition of a single project site or a contiguous trail corridor is eligible for PARTF assistance.
 - (2) Utility lines developed with PARTF assistance shall be placed underground.
 - (3) The following costs are eligible within the limits that are identified.
 - (A) Land acquisition costs such as appraisals, surveys, title work, and attorney fees.
 - (B) Construction costs such as site planning, design drawings, construction drawings, preparing cost estimates, architectural and engineering fees, permits, construction management, and project inspection.
 - (C) The cost of preparing an application.
 - (D) The costs in Parts (A) through (C) of this Subparagraph shall not exceed 20 percent of the total cost of the ~~project~~ project or 20 percent of the maximum grant amount, whichever is less. These costs may be incurred within two years

- of the application deadline as well as during the project period.
- (E) A contingency may be included in the development cost estimates, but shall not exceed five percent of total development ~~costs~~, costs or five percent of the maximum grant amount, whichever is less.
- (4) PARTF-assisted facilities on school property shall not be recreational facilities generally provided by the school for the use of their students.

Authority G.S. 143B-135.66.

07 NCAC 13K .0109 SITE CONTROL AND DEDICATION RESTRICTION

- (a) Land acquired with PARTF assistance shall be ~~dedicated~~ restricted in perpetuity for local park and recreation purposes for the use and benefit of the general public. The ~~dedication~~ restriction shall be recorded in the public property records by the grantee.
- (b) The site of a PARTF project for development shall be controlled (e.g. fee simple ownership or long-term lease) by the grantee by the closing date of the application submission period. Any lease agreement shall extend for a minimum of 25 years unless the property is the subject of a federal, state, or local leasing arrangement which provides assurance that 25 years of public recreational use will be maintained.
- (c) Grantees shall assure that PARTF assisted development facilities are maintained and managed for public recreation use for a minimum period of 25 years after the completion date set forth in the grant agreement.
- (d) PARTF-assisted land and facilities shall not be converted to uses that are other than public recreation without approval by ~~DENR, the Department~~, in the following manner:
- (1) A grant recipient shall notify ~~DENR the~~ Department and request approval before any conversion occurs.
 - (2) The grant recipient shall address issues of local concern prior to forwarding a conversion request to ~~DENR, the Department~~.
 - (3) ~~DENR The Department~~ shall deny the request if it determines that the grantee has reasonable alternatives available to avoid the conversion.
 - (4) All conversions shall be mitigated with measures approved by ~~DENR the Department~~ with advice from the Parks and Recreation Authority.
 - (5) The primary mitigation for a conversion is to have the grantee replace, at its own expense, land acquired with PARTF assistance with land of equal current fair market value and recreational usefulness. Facilities built with PARTF assistance shall be replaced with facilities of equal current replacement value, and recreational usefulness. Replacement areas shall also be within the grantee's service area; provide or be part of a viable recreation area;

- and be to the maximum extent possible, consistent with all current application requirements for a new PARTF application.
- (6) Replacement property and facilities shall be encumbered by the same obligations as specified in the project agreement and rules for the converted property or facility.
- (7) If ~~DENR the Department~~ determines that the local government cannot reasonably replace the land or facilities, ~~DENR the Department~~ may mitigate the conversion by the grantee repaying PARTF with funds equal to the current value of the land or facilities.
- (8) ~~DENR The Department~~ shall include provisions on conversions in all grant agreements.

- (e) A conversion is defined as the use of PARTF-assisted land or facilities for a purpose other than public recreation.
- (f) If PARTF-assisted facilities are built on public school property, the applicant(s) shall submit an agreement with the application describing that the facilities will be available to the general public during non-school hours. Projects on land owned by a school shall have sign(s) installed informing the public that the facilities are open to the general public. These signs shall also indicate the times when the facilities are reserved exclusively for school use.
- (g) Failure by the grantee(s) to comply with the provisions of this Section or the project agreement may result, in addition to any other legal remedies, in the Authority on behalf of the Department declaring the grantee(s) ineligible for further participation in the PARTF until such time as compliance has been obtained.

Authority G.S. 143B-135.66.

07 NCAC 13K .0110 INSPECTIONS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Industrial Commission intends to adopt the rule cited as 11 NCAC 23B .0106 and amend the rules cited as 11 NCAC 23A .0104, .0408, .0409, .0501, .0903; 23E .0104; and 23L .0103.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ic.nc.gov/proposedGroup3TortSecureLeaveand26ARules.html>

Proposed Effective Date: June 1, 2020

Public Hearing:

Date: January 30, 2020

Time: 2:00 p.m.

Location: Room 240, 2nd Floor, Dept. of Insurance, Albemarle Bldg., 325 N. Salisbury St., Raleigh NC 27603

Reason for Proposed Action: *The Industrial Commission (hereinafter "Commission") has deemed the proposed adoption of*

the new rule cited as 11 NCAC 23B .0106 necessary to give clarity to the regulated entities in State tort claims regarding when notice is complete for decisions, orders, and other documents served on the regulated entities by the Commission via electronic mail. Additionally, on its own initiative, the Commission conducted an internal review of its existing rules and sought informal stakeholder feedback. The proposed amendments to the rules cited as 11 NCAC 23A .0104, .0408, .0409, .0501, and .0903 reflect changes the Commission has deemed necessary to clarify the rules, provide for increased efficiency, or update the rules to reflect current practices. The proposed amendment to the rule cited as 11 NCAC 23E .0104 was deemed necessary by the Commission to clarify and update its secure leave policy, to align the Commission's secure leave policy with the recent changes made to Rule 26 of the North Carolina Rules of General Practice, and to update the rule to reflect current practices. The proposed amendment to the rule cited as 11 NCAC 23L .0103 is a form change deemed necessary by the Commission in light of the proposed amendment to the rule cited as 11 NCAC 23A .0501.

Comments may be submitted to: Gina Cammarano, 1240 Mail Service Center, Raleigh, NC 27699-1240; phone (919) 807-2524; email gina.cammarano@ic.nc.gov

Comment period ends: March 16, 2020

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

CHAPTER 23 - INDUSTRIAL COMMISSION

SUBCHAPTER 23A - WORKERS' COMPENSATION RULES

SECTION .0100 - ADMINISTRATION

11 NCAC 23A .0104 EMPLOYER'S REQUIREMENT TO FILE A FORM 19 FIRST REPORT OF INJURY

(a) The form required to be provided by G.S. 97-92(a) is the Form 19 Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission. The Form 19 shall be used when the injury causes the employee to be absent from work for more than one day or when the charges for medical compensation exceed four thousand dollars (\$4,000). The Form 19 shall be filed with the Commission in accordance with Rule .0108(d) of this Section.

(b) The employer, carrier, or administrator shall provide the employee with a copy of the completed Form 19 Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission, along with a blank Form 18 Notice of Accident to Employer and Claim of Employee, Representative, or Dependent for use by the employee in making a claim.

Authority G.S. 97-80(a); 97-92.

SECTION .0400 – DISABILITY, COMPENSATION, FEES

11 NCAC 23A .0408 APPLICATION FOR OR STIPULATION TO ADDITIONAL MEDICAL COMPENSATION

(a) An employee may file an application for additional medical compensation with the Office of the Executive Secretary for an order for payment of additional medical compensation within two years of the date of the last payment of medical or indemnity compensation, whichever ~~shall last occur~~ occurs last. An application may be made on a Form 18M Employee's Application for Additional Medical ~~Compensation~~, Compensation or by written ~~request~~, request. In the alternative, an employee may file an application for additional medical compensation or by filing a Form 33 Request that Claim be Assigned for Hearing with the Commission. Commission pursuant to Rule .0602 of this Subchapter.

(b) Upon receipt of ~~the application~~, a Form 18M Employee's Application for Additional Medical Compensation or a written request, the Commission shall notify the employer, carrier, or administrator that the claim has been received by providing a copy of the Form 18M Employee's Application for Additional Medical Compensation or the written request. Within 30 days, the employer, carrier, or administrator may send to the Commission and the employee's attorney of record or the employee, if unrepresented, a written statement as to whether the request is accepted or denied. If the request is denied, the employer, carrier, or administrator may state in writing the grounds for the denial and shall attach any supporting documentation to the statement of denial.

(c) The parties may, by agreement or stipulation consistent with the Workers' Compensation Act, provide for additional medical compensation.

(d) This Rule applies to injuries occurring on or after July 5, 1994.

Authority G.S. 97-25.1; 97-80(a).

11 NCAC 23A .0409 CLAIMS FOR DEATH BENEFITS

(a) An employer shall notify the Commission of the occurrence of a death resulting from an injury or occupational disease allegedly arising out of and in the course of employment by filing a Form 19 Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission within five days of knowledge thereof of the death. ~~In addition, an employer, carrier, or administrator shall file with the Commission a Form 29 Supplemental Report for Fatal Accidents, within 45 days of knowledge of a death or allegation of death resulting from an injury or occupational disease arising out of and in the course of employment.~~

(b) An employer, carrier, or administrator shall ~~make a good faith effort to discover~~ conduct an investigation to determine the names and addresses of decedent's potential beneficiaries under G.S. 97-38 and identify them on the Form 29 Supplemental Report for Fatal ~~Accident~~. Accidents. The Form 29 Supplemental Report for Fatal Accidents shall be filed with the Commission within 45 days of notification of a death or allegation of death resulting from an injury or occupational disease arising out of and in the course of employment.

(c) If the employer, carrier, or administrator disputes that an employee's death is compensable or denies it has liability for the claim, the employer, carrier, or administrator shall notify the Commission on a Form 61 Denial of Workers' Compensation Claim. When the employer, carrier, or administrator denies liability for a claim involving an employee's death, the employer, carrier, or administrator shall send the form to all known potential beneficiaries, their attorneys of record, if any, all health care providers that have submitted bills to the employer, carrier, or administrator, and the Commission.

(d) If the employer, carrier, or administrator accepts liability for a claim involving an employee's death and there are no issues necessitating a hearing for determination of beneficiaries or their respective rights, the parties shall submit either a Form 30 Agreement for Compensation for Death as set forth in Rule .0501 of this Subchapter or a proposed Opinion and Award.

(e) If the parties submit a Form 30 Agreement for Compensation for Death, the agreement shall be filed in accordance with Rule .0108 of this Subchapter with the following:

- (1) a stipulation as to average weekly wage;
- (2) any affidavits regarding dependents;
- (3) the employee's death certificate;
- (4) a Form 29 Supplemental Report for Fatal Accidents;
- (5) a Form 42 Application for Appointment of Guardian ad Litem, if any beneficiary is a minor or incompetent;
- (6) proof of beneficiary status, such as marriage license, birth certificate, or divorce decree;
- (7) a funeral bill or stipulation as to payment of the funeral benefit;
- (8) a Form 30D Award Approving Agreement for Compensation for Death; and
- (9) an affidavit or itemized statement in support of an award of attorney's fees if an attorney is seeking fees for representation of one or more beneficiaries.

(f) If the parties seek a written Opinion and Award from the Commission regarding the payment of death benefits in lieu of submitting a Form 30 Agreement for Compensation for Death, the parties shall file, in accordance with Rule .0108 of this Subchapter, a proposed Opinion and Award with the following:

- (1) a stipulation regarding all jurisdictional matters;
- (2) the decedent's name, social security number, employer, insurance carrier or servicing agent, and the date of the injury giving rise to this claim;
- (3) a stipulation as to average weekly wage;
- (4) any affidavits regarding dependents;
- (5) the employee's death certificate;
- (6) a Form 29 Supplemental Report for Fatal Accidents;
- (7) a Form 42 Application for Appointment of Guardian ad Litem, if any beneficiary is a minor or incompetent;
- (8) proof of beneficiary status, such as marriage license, birth certificate, or divorce decree;
- (9) medical records, if any;
- (10) a statement of payment of medical expenses incurred, if any;
- (11) a funeral bill or stipulation as to payment of the funeral benefit; and
- (12) an affidavit or itemized statement in support of an award of attorney's fees if an attorney is seeking fees for representation of one or more beneficiaries.

(g) If an issue exists as to whether a person is a beneficiary pursuant to G.S. 97-38 or if any other disputed issue exists in an accepted claim, the employer, carrier, administrator, potential beneficiary, or any person asserting a claim for benefits may request a hearing by filing a Form 33 Request that Claim be Assigned for Hearing in accordance with Rule .0602 of this Subchapter.

(h) Upon approval by the Commission of a Form 30 Agreement for Compensation for Death or upon the issuance of a final order of the Commission directing payment of death benefits pursuant to G.S. 97-38, payment shall be made by the employer, carrier, or administrator directly to the beneficiaries, with the following exceptions:

- (1) any applicable award of attorney's fees shall be paid directly to the attorney; and
- (2) benefits due to a minor or incompetent.

(i) In all cases involving minors and incompetent persons who are potential beneficiaries, a guardian ad litem shall be appointed pursuant to Rule .0604 of this Subchapter.

(j) Any benefits due to a minor pursuant to G.S. 97-38 shall be paid directly to the minor's parent, legal guardian, or legal custodian, if the minor remains in the physical custody of such person, or another person if ordered by the Commission for good cause shown, for the exclusive use and benefit of the minor. When a beneficiary reaches the age of 18, any remaining benefits shall be paid directly to the beneficiary.

(k) The Commission shall order that the benefits for an incompetent beneficiary shall be paid to the person or entity authorized to receive funds on behalf of the beneficiary pursuant

to a federal or state court order, or to the Clerk of Court in the county in which the beneficiary resides, for the beneficiary's exclusive use and benefit.

~~(l) Upon a change in circumstances, any interested party may request that the Commission amend the terms of any award with respect to a minor or incompetent person to direct payment to another party on behalf of the minor or incompetent person.~~

~~(m) In the case of benefits commuted to present value, only those sums that have not accrued at the time of the approval of a Form 30 or entry of a final order of the Commission directing payment of death benefits pursuant to G.S. 97-38 are subject to commutation pursuant to Rule .0406 of this Subchapter.~~

~~(e) In all cases involving minors or incompetents who are potential beneficiaries, a guardian ad litem shall be appointed pursuant to Rule .0604 of this Subchapter.~~

~~(d) If an issue exists as to whether a person is a beneficiary under G.S. 97-38, the employer, carrier, administrator, or any person asserting a claim for benefits may file a Form 33 Request that Claim be Assigned for Hearing for a determination by a Deputy Commissioner.~~

~~(e) If the employer, carrier, or administrator accepts liability for a claim involving an employee's death and there are no issues necessitating a hearing for determination of beneficiaries or their respective rights, the parties shall submit an agreement executed by all interested parties or their representatives to the Commission. All agreements shall be submitted to the Commission on a Form 30 Agreement for Compensation for Death as set forth in Rule .0501 of this Subchapter.~~

~~(f) The agreement shall be submitted along with all relevant supporting documents, including death certificate of the employee, any relevant marriage certificate and birth certificates for any dependents.~~

~~(g) If the employer, carrier, or administrator denies liability for a claim involving an employee's death, the employer, carrier, or administrator shall send a letter of denial to all potential beneficiaries, their attorneys of record, if any, all known health care providers that have submitted bills to the employer, carrier, or administrator, and the Commission. The denial letter shall state the reasons for the denial and shall further advise of a right to hearing.~~

~~(h) Any potential beneficiary, the employer, the carrier, or the administrator may request a hearing as provided in Rule .0602 of this Subchapter.~~

~~(i) Upon approval by the Commission of a Form 30 Agreement for Compensation for Death, or the issuance of a final order of the Commission directing payment of death benefits pursuant to G.S. 97-38, payment shall be made by the employer, carrier, or administrator directly to the beneficiaries, with the following exceptions:~~

- ~~(1) any applicable award of attorney fees shall be paid directly to the attorney; and~~
- ~~(2) benefits due to a minor or incompetent.~~

~~(j) Any benefits due to a minor pursuant to G.S. 97-38 shall be paid directly to the parent as natural guardian of the minor for the use and benefit of the minor if the minor remains in the physical custody of the parent as natural guardian. If the minor is not in the physical custody of the parent as natural guardian, payment shall be made through some other person appointed by a court of competent jurisdiction or to such other person under such terms~~

~~as the Commission finds is in the best interests of the parties. When a beneficiary reaches the age of 18, any remaining benefits shall be paid directly to the beneficiary.~~

~~(k) In order to protect the interests of a beneficiary who is incompetent, the Commission shall order that benefits be paid to the beneficiary's appointed general guardian for the beneficiary's exclusive use and benefit, or to the Clerk of Court in the county in which the beneficiary resides for the beneficiary's exclusive use and benefit as determined by the Clerk of Court.~~

~~(l) Upon a change in circumstances, any interested party may request that the Commission amend the terms of any award with respect to a minor or incompetent to direct payment to another party on behalf of the minor or incompetent.~~

~~(m) In the case of benefits commuted to present value, only those sums that have not accrued at the time of the entry of the Order are subject to commutation.~~

~~(n) Where the parties seek a written opinion and award from the Commission regarding the payment of death benefits in uncontested cases in lieu of presenting testimony at a hearing before a Deputy Commissioner, the parties may make application to the Commission for a written opinion by filing a written request with the Docket Director.~~

~~(o) The parties shall file, electronically, by joint stipulation, affidavit or certified document, a proposed opinion and award or order along with the following information:~~

- ~~(1) a stipulation regarding all jurisdictional matters;~~
- ~~(2) the decedent's name, social security number, employer, insurance carrier or servicing agent, and the date of the injury giving rise to this claim;~~
- ~~(3) a Form 22 Statement of Days Worked or Earnings of Injured Employee or stipulation as to average weekly wage;~~
- ~~(4) any affidavits regarding dependents;~~
- ~~(5) the death certificate;~~
- ~~(6) a Form 29 Supplemental Report for Fatal Accidents;~~
- ~~(7) Guardian ad litem forms, if any beneficiary is a minor or incompetent;~~
- ~~(8) proof of beneficiary status, such as marriage license, birth certificate, or divorce decree;~~
- ~~(9) medical records, if any;~~
- ~~(10) a statement of payment of medical expenses incurred, if any; and~~
- ~~(11) a funeral bill or stipulation as to payment of the funeral benefit.~~

~~(p) Any attorney seeking fees for representation in an uncontested claim shall file an affidavit or itemized statement in support of an award of attorney's fees.~~

Authority G.S. 97-38; 97-39; 97-80(a).

SECTION .0500 – AGREEMENTS

11 NCAC 23A .0501 AGREEMENTS FOR PROMPT PAYMENT OF COMPENSATION

(a) To facilitate the payment of compensation within the time prescribed in G.S. 97-18, the Commission shall accept

memoranda of ~~agreements~~ agreement on Commission forms. These forms include the Form 21 Agreement for Compensation for Disability, Form 26 Supplemental Agreement as to Payment of Compensation, Form 26A Employer's Admission of Employee's Right to Permanent Partial Disability, Form 26D Agreement for Payment of Unpaid Compensation in Unrelated Death Cases, and Form 30 Agreement for Compensation for Death.

(b) No agreement for permanent disability shall be approved until the relevant medical and vocational ~~records~~ records, including a job description if the employee has permanent work restrictions and has returned to work for the employer of injury, known to exist in the case have been filed with the Commission. When requested by the Commission, the parties shall file any additional documentation necessary to determine whether the employee is receiving the disability compensation to which he or she is entitled and that an employee qualifying for disability compensation under G.S. 97-29 or G.S. 97-30, and G.S. 97-31 has the benefit of the more favorable remedy.

(c) ~~All memoranda of agreements shall be submitted to the Commission. After the employer, carrier, or administrator has received a memorandum of agreement that has been signed by the employee and the employee's attorney of record, if any, the employer, carrier, or administrator shall submit the memorandum of agreement within 20 days to the Commission for review and approval. Agreements conforming to the provisions of the Workers' Compensation Act shall be approved by the Commission and a copy returned to the employer, carrier, or administrator, and a copy sent to the employee, employee, unless amended by an award, in which event the Commission shall return the award with the agreement.~~

(d) ~~The~~ Upon submission to the Commission of the executed agreement, the employer, carrier, administrator, or the attorney of record, if any, shall provide the employee, beneficiary, or attorney of record, employee's attorney of record or the employee, if any, unrepresented, a copy of a Form 21 Agreement for Compensation for Disability, a Form 26 Supplemental Agreement as to Payment of Compensation, a Form 26D Agreement for Payment of Unpaid Compensation in Unrelated Death Cases, and a Form 30 Agreement for Compensation for Death, when the employee or appropriate beneficiary signs the forms, with a copy of the executed agreement that was submitted to the Commission.

(e) All memoranda of ~~agreements~~ agreement for cases that are calendared for hearing before a Commissioner or Deputy Commissioner shall be ~~sent directly addressed to that Commissioner or Deputy Commissioner. Commissioner, and filed in accordance with Rule .0108 of this Subchapter.~~ Before a case is calendared, or once a case has been continued or removed, or after the filing of an Opinion and Award, all memoranda of ~~agreements~~ agreement shall be ~~directed~~ addressed to the Claims Section of the ~~Commission. Commission, and filed in accordance with Rule .0108 of this Subchapter.~~

(f) ~~After the employer, carrier, or administrator has received a memorandum of agreement that has been signed by the employee and the employee's attorney of record, if any, the employer, carrier, or administrator has 20 days within which to submit the memorandum of agreement to the Commission for review and approval or within which to show cause for not submitting the memorandum of agreement signed only by the employee.~~

Authority G.S. 97-18; 97-80(a); 97-82.

SECTION .0900 – REPORT OF EARNINGS

11 NCAC 23A .0903 EMPLOYEE'S OBLIGATION TO REPORT EARNINGS

(a) A self-insured employer, ~~earrier~~ carrier, or third-party administrator may require the employee who has filed a claim to complete a Form 90 Report of Earnings when reasonably necessary but not more than once every six months.

(b) The Form 90 Report of Earnings shall be sent to the employee by certified mail, return receipt requested, and shall include a self-addressed stamped envelope for the return of the form. When the employee is represented by an attorney, the Form 90 Report of Earnings shall be sent only to the attorney for the employee and shall be sent by any method of transmission that provides proof of receipt, including electronic mail, facsimile, or certified mail return receipt requested, and not to the employee.

(c) The employee shall complete and return the Form 90 Report of Earnings within 15 days after receipt of a Form 90 Report of Earnings. If the employee fails to complete and return the Form 90 Report of Earnings within 30 days of receipt of the form, the self-insured employer, ~~earrier~~ carrier, or third-party administrator may seek ~~an order from the Executive Secretary allowing the suspension of benefits. The self-insured employer, carrier or third-party administrator shall not suspend benefits without Commission approval pursuant to the Workers' Compensation Act, to suspend compensation being paid pursuant to G.S. 97-29 by filing a Form 24 Application to Terminate or Suspend Payment of Compensation as allowed by G.S. 97-18.1 and Rule .0404 of this Subchapter. If the Commission suspends benefits for failure to complete and return a Form 90 Report of Earnings, the self-insured employer, carrier or third-party administrator shall reinstate benefits to the employee with back payment as soon as the Form 90 Report of Earnings is submitted by the employee. If benefits are not reinstated, the employee shall submit a written request for an Order from the Executive Secretary instructing the self-insured employer, carrier or third-party administrator to reinstate benefits. If the employee's earnings report does not indicate continuing eligibility for partial or total disability compensation, the self-insured employer, carrier or third-party administrator may apply to the Commission to terminate or modify benefits by filing a Form 24 Application to Terminate or Suspend Payment of Compensation or Form 33 Request that Claim be Assigned for Hearing.~~

(d) If compensation is suspended pursuant to Paragraph (c) of this Rule and the employee subsequently completes and returns the Form 90 Report of Earnings, the self-insured employer, carrier, or third-party administrator shall reinstate payment of compensation to the employee with back payment. However, if the Form 90 Report of Earnings does not indicate continuing eligibility for disability compensation, the self-insured employer, carrier, or third-party administrator is not required to reinstate payment of compensation. If the Form 90 Report of Earnings indicates continuing eligibility for temporary partial disability compensation, the self-insured employer, carrier, or third-party administrator shall make payment of compensation pursuant to G.S. 97-30 with back payment within 14 days of receipt of documentation establishing the amount of compensation due. If

payment of compensation is not reinstated following submission of the completed Form 90 Report of Earnings and the employee claims entitlement to ongoing disability compensation, the employee may seek reinstatement by filing a Form 23 Application to Reinstate Payment of Disability Compensation or Form 33 Request that Claim be Assigned for Hearing.

Authority G.S. 97-80(a); 97-88.2.

SUBCHAPTER 23B – TORT CLAIMS RULES

SECTION .0100 – ADMINISTRATION

11 NCAC 23B .0106 NOTICE BY THE COMMISSION

(a) If service is provided by electronic mail, "receipt of such notice" pursuant to G.S. 143-292 is complete one hour after it is sent by the Commission, provided that:

- (1) notice sent after 5:00 p.m. shall be complete at 8:00 a.m. the following State business day; and
- (2) notice sent by electronic mail that is not readable by the recipient is not complete. Within five State business days of receipt of an unreadable document, the receiving party shall notify the Commission of the unreadability of the document.

(b) If service shall be provided by electronic mail, notice of orders or other documents issued pursuant to G.S. 143-296 is complete in accordance with the same provisions set forth in Paragraph (a) of this Rule.

Authority G.S. 143-300.

SUBCHAPTER 23E – ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION

SECTION .0100 – ADMINISTRATION

11 NCAC 23E .0104 SECURE LEAVE PERIODS FOR ATTORNEYS

(a) Any attorney may request one or more secure leave periods each year as provided in this Rule.

(b) For the purpose of this Paragraph only, a "secure leave period" is defined as a partial calendar week or a complete calendar week. ~~During any~~ Within a calendar year, an attorney's secure leave periods pursuant to this Rule shall not exceed an aggregate of three weeks. attorney is entitled to obtain secure leave periods totaling up to 15 business days for any purpose.

(c) For the purpose of this Paragraph only, a "secure leave period" is defined as a complete calendar week. Within a 24-week period surrounding the birth or adoption of an attorney's child, that attorney is entitled to have the benefit of up to 12 additional secure leave periods.

(e) To request a secure leave period an attorney shall file a written request, by letter or motion, containing the information required by Paragraph (d) of this Rule with the Office of the Chair within the time provided in Paragraph (e). Upon such filing, the Chair shall review the request and, if the request complies with Paragraphs (d) and (e) of this Rule, issue a letter allowing the requested secure leave period. The attorney shall not be required

to appear at any trial, hearing, deposition, or other proceeding before the Commission during that secure leave period.

(d) To request a secure leave period, an attorney shall file a written request, by letter or motion, containing the information required by Paragraph (e) of this Rule with the Office of the Chair within the time period provided in Paragraph (f) of this Rule. Upon such filing, the Chair shall review the request. If the request is made pursuant to Paragraph (b) or Paragraph (c) of this Rule and the request complies with Paragraphs (e) and (f) of this Rule, the Chair shall issue a letter allowing the requested secure leave period. The attorney shall not be required to appear at any trial, hearing, deposition, or other proceeding before the Commission during a secure leave period that is allowed.

(d) The request shall contain the following information:

- (1) the attorney's name, address, telephone number and state bar number;
- (2) the date(s) for which secure leave is being requested;
- (3) the dates of all other secure leave periods during the current calendar year that have previously been designated by the attorney pursuant to this Rule;
- (4) a statement that the secure leave period is not being designated for the purpose of delaying, hindering or interfering with the timely disposition of any matter in any pending action or proceeding; and
- (5) a statement that no action or proceeding in which the attorney has entered an appearance has been scheduled, tentatively set, or noticed for trial, hearing, deposition or other proceeding during the designated secure leave period.

(e) The request shall contain the following information:

- (1) the attorney's name, mailing address, telephone number, email address, and state bar number;
- (2) the date(s) for which secure leave is being requested;
- (3) the dates of all other secure leave periods during the current calendar year that have previously been designated by the attorney pursuant to this Rule;
- (4) a statement that the secure leave period is not being designated for the purpose of delaying, hindering, or interfering with the disposition of any matter in any pending action or proceeding;
- (5) a statement that no action or proceeding in which the attorney has entered an appearance has been scheduled, tentatively set, or noticed for trial, hearing, deposition, or other proceeding during the designated secure leave period; and
- (6) for secure leave requests that arise under Paragraph (c) of this Rule, the expected birth date or adoption date of the child.

(e) To be allowed, the request shall be filed:

- (1) no later than 90 days before the beginning of the secure leave period; and
- (2) before any trial, hearing, deposition or other matter has been regularly scheduled;

peremptorily set or noticed for a time during the designated secure leave period.

An untimely request will be denied by letter. In the event that a party has been denied secure leave because the request was not timely filed and there are extraordinary circumstances, the attorney may file a motion requesting an exception. If the case has been scheduled for hearing before a Deputy Commissioner, the motion shall be addressed to the Deputy Commissioner. If the matter is scheduled for hearing before the Full Commission, the motion shall be addressed to the Chair of the Panel before which the hearing will be held. In all other cases, the motion should be directed to the Office of the Chair.

(f) The request shall be filed:

- (1) no later than 90 days before the beginning of the secure leave period; and
- (2) before any trial, hearing, deposition, or other matter has been scheduled, peremptorily set, or noticed for a time during the designated secure leave period.

(f) If, after a secure leave period has been allowed pursuant to this Rule, any trial, hearing, deposition, or other proceeding is scheduled or tentatively set for a time during the secure leave period, the attorney shall file with the Deputy Commissioner or chair of the Full Commission panel before which the matter was calendared or set, and serve on all parties, a copy of the letter allowing the secure leave period with a certificate of service attached. Upon receipt, the proceeding shall be rescheduled for a time that is not within the attorney's secure leave period.

(g) The Chair may, as set forth in Rule .0301 of this Subchapter, make exception to the 15-day aggregate limit set forth in Paragraph (b) of this Rule, the requirement set forth in Subparagraph (e)(5) of this Rule, and the limitations set forth in Subparagraphs (f)(1) and (f)(2) of this Rule. An attorney requesting that the Chair make this exception under this Paragraph shall inform the Chair of all known actions or proceedings

involving that attorney that are scheduled, tentatively set, or noticed for trial, hearing, deposition, or other proceeding during the requested secure leave period. The attorney also shall provide notice to all opposing parties or, if represented, opposing counsel of record in all cases subject to the jurisdiction of the Industrial Commission of the beginning and ending dates of the requested secure leave period and of all known actions or proceedings involving that attorney that are scheduled, tentatively set, or noticed for trial, hearing, deposition, or other proceeding during the requested secure leave period.

(g) If, after a secure leave period has been allowed pursuant to this Rule, any deposition is noticed for a time during the secure leave period, the attorney may serve on the party that noticed the deposition a copy of the letter allowing the secure leave period with a certificate of service attached, and that party shall reschedule the deposition for a time that is not within the attorney's secure leave period.

(h) After a secure leave period has been allowed pursuant to this Rule, if any trial, hearing, or other proceeding is scheduled or tentatively set for a time during the secure leave period, the attorney shall file with the Deputy Commissioner or Chair of the Full Commission panel before which the matter was calendared or set, and serve on all parties, a copy of the letter allowing the secure leave period with a certificate of service attached. Upon receipt, the proceeding shall be rescheduled for a time that is not within the attorney's secure leave period.

(i) After a secure leave period has been allowed pursuant to this Rule, if any deposition is noticed for a time during the secure leave period, the attorney may serve on the party that noticed the deposition a copy of the letter allowing the secure leave period with a certificate of service attached, and that party shall reschedule the deposition for a time that is not within the attorney's secure leave period.

Authority G.S. 97-80(a).

SUBCHAPTER 23L – INDUSTRIAL COMMISSION FORMS

SECTION .0100 – WORKERS' COMPENSATION FORMS

11 NCAC 23L .0103 FORM 26A – EMPLOYER'S ADMISSION OF EMPLOYEE'S RIGHT TO PERMANENT PARTIAL DISABILITY

(a) (Effective until July 1, 2015) The parties to a workers' compensation claim shall use the following Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, for agreements regarding the employee's entitlement to and the employer's payment of compensation for permanent partial disability pursuant to G.S. 97-31. Additional issues agreed upon by the parties, such as election of payment of temporary partial disability pursuant to G.S. 97-30, may also be included on the form. This form is necessary to comply with Rule 11 NCAC 23A .0501, where applicable. The Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, shall read as follows:

North Carolina Industrial Commission
Employer's Admission of Employee's Right to Permanent Partial Disability
(G.S. §97-31)

IC File # _____
Emp. Code # _____
Carrier Code # _____
Carrier File # _____
Employer FEIN _____

PROPOSED RULES

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name

Address

City State Zip

Home Telephone Work Telephone

Social Security Number: _____ Sex: ☐ M ☐ F Date of Birth: _____

Employer's Name Telephone Number

Employer's Address City State Zip

Insurance Carrier

Carrier's Address City State Zip

Carrier's Telephone Number Carrier's Fax Number

WE, THE UNDERSIGNED, DO HEREBY AGREE AND STIPULATE AS FOLLOWS:

1. ~~All the parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and _____ is the Carrier/Administrator for the Employer.~~

2. ~~The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on _____.~~

3. ~~The injury by accident or occupational disease resulted in the following injuries:~~

4. ~~The employee ☐ was ☐ was not paid for the 7 day waiting period.~~

~~If not, was salary continued? ☐ yes ☐ no. Was employee paid for the date of injury? ☐ yes ☐ no~~

5. ~~The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$ _____. This results in a weekly compensation rate of \$ _____.~~

6. ~~The employee ☐ has ☐ has not returned full time to work for _____ on _____, at an average weekly wage of \$ _____.~~

7. ~~Claimant was released ☐ with permanent restrictions ☐ without permanent restrictions.~~

8. ~~Permanent partial disability compensation will be paid to the injured worker as follows:~~

~~_____ weeks of compensation at rate of \$ _____ per week for _____ % rating to _____ (body part)~~

~~_____ weeks of compensation at rate of \$ _____ per week for _____ % rating to _____ (body part)~~

~~_____ weeks of compensation at rate of \$ _____ per week for _____ % rating to _____ (body part)~~

~~Total amount of permanent partial disability compensation is \$ _____. Date of first payment: _____.~~

9. ~~State any further matters agreed upon, including disfigurement, loss of teeth, election of temporary partial disability, waiting period or other: _____.~~

10. ~~An overpayment is claimed in the amount of \$ _____. Overpayment was calculated as follows: _____.~~

~~If overpayment claimed, a Form 28B, Report of Compensation and Medical Compensation Paid, is attached. ☐ yes ☐ no~~

11. ~~If applicable, the Second Injury Fund Assessment is \$ _____. A check ☐ is ☐ is not included.~~

12. **IMPORTANT NOTICE TO EMPLOYEE:** The Industrial Commission's fee for processing this agreement is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of the fee in advance, and if your award is \$3,000.00 or less, you are not responsible for any portion of the fee. If your award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer agree otherwise.

Check one of the boxes below if the award is more than \$3,000.00:

The employer will deduct \$150.00 from the amount to be paid pursuant to this agreement.

The employee and employer have agreed that the employer will pay the entire fee.

The undersigned hereby certify that the material medical and vocational reports related to the injury have been provided to the employee or the employee's attorney and have been filed with the Industrial Commission for consideration pursuant to G.S. 97-82(a) and Rule 11 NCAC 23A .0501.

PROPOSED RULES

Name Of Employer Signature Title Date

Name Of Carrier/Administrator Signature Direct Phone Number Title Date

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on pages 2 and 3 of this form.

Signature of Employee Address Date

Signature of Employee's Attorney Address _____ Date

☐ Check box if no attorney retained.

North Carolina Industrial Commission
The Foregoing Agreement Is Hereby Approved:

Claims Examiner Date

Attorney's fee approved

~~IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS~~

~~Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.~~

~~IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS~~

~~If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.~~

~~IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS~~

~~If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must apply to the Industrial Commission in writing within two years, or your right to these benefits may be lost. To apply you may also use Industrial Commission 18M, Employee's Application for Additional Medical Compensation (G.S. 97-25.1), available at <http://www.ic.nc.gov/forms.html>.~~

~~IMPORTANT NOTICE TO EMPLOYER~~

~~The employee must be provided a copy when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The employer or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.~~

~~NEED ASSISTANCE?~~

~~If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.~~

Form 26A
11/2014

Self Insured Employer or Carrier Mail to:
NCIC Claims Administration
4335 Mail Service Center
Raleigh, North Carolina 27699-4335
Main Telephone: (919) 807-2500
Helpline: (800) 688-8349

Website: <http://www.ic.nc.gov/>

(a) ~~(Effective July 1, 2015)~~ The parties to a workers' compensation claim shall use the following Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, for agreements regarding the employee's entitlement to and the employer's payment of compensation for permanent partial disability pursuant to G.S. 97-31. Additional issues agreed upon by the parties, such as election of payment of temporary partial disability pursuant to G.S. 97-30, may also be included on the form. This form is necessary to comply with Rule 11 NCAC 23A .0501, where applicable. The Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, shall read as follows:

North Carolina Industrial Commission
Employer's Admission of Employee's Right to Permanent Partial Disability
(G.S. §97-31)

IC File # _____
Emp. Code # _____
Carrier Code # _____
Carrier File # _____
Employer FEIN _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name

Address

City State Zip

Home Telephone _____ Work Telephone _____
Social Security Number: _____ Sex: ☐ M ☐ F Date of Birth: _____

Employer's Name Telephone Number

Employer's Address City State Zip

Insurance Carrier

Carrier's Address City State Zip

Carrier's Telephone Number Carrier's Fax Number

WE, THE UNDERSIGNED, DO HEREBY AGREE AND STIPULATE AS FOLLOWS:

1. All the parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and _____ is the Carrier/Administrator for the Employer.
2. The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on _____.
3. The injury by accident or occupational disease resulted in the following injuries: _____.
4. The employee ☐ was ☐ was not paid for the 7 day waiting period.
If not, was salary continued? ☐ yes ☐ no. Was employee paid for the date of injury? ☐ yes ☐ no
5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$ _____.
This results in a weekly compensation rate of \$ _____.
6. The employee ☐ has ☐ has not returned full time to work for _____
on _____, at an average weekly wage of \$ _____.
7. Claimant was released ☐ with permanent restrictions ☐ without permanent restrictions. If claimant was released with permanent restrictions and has returned to work for the employer of injury, attach a job description if known to exist.
8. Permanent partial disability compensation will be paid to the injured worker as follows:
____ weeks of compensation at rate of \$ _____ per week for _____ % rating to _____ (body part)
____ weeks of compensation at rate of \$ _____ per week for _____ % rating to _____ (body part)

PROPOSED RULES

____ weeks of compensation at rate of \$_____ per week for ____% rating to _____ (body part)

Total amount of permanent partial disability compensation is \$_____. Date of first payment:_____.

9. State any further matters agreed upon, including disfigurement, loss of teeth, election of temporary partial disability, waiting period or other: _____.

10. An overpayment is claimed in the amount of \$_____. Overpayment was calculated as follows:_____.

If overpayment claimed, a Form 28B, Report of Compensation and Medical Compensation Paid, is attached. ☐ yes ☐ no

11. If applicable, the Second Injury Fund Assessment is \$_____. A check ☐ is ☐ is not included.

The undersigned hereby certify that the material medical and vocational ~~reports~~ records related to the ~~injury~~ injury, including any job description known to exist if the employee has permanent restrictions and has returned to work for the employer of injury, have been provided to the employee or the employee's attorney and have been filed with the Industrial Commission for consideration pursuant to G.S. 97-82(a) and Rule 11 NCAC 23A .0501.

_____ Name Of Employer	_____ Signature	_____ Title	_____ Date
_____ Name Of Carrier/Administrator	_____ Signature	_____ Direct Phone Number	_____ <u>Email Address</u>
		_____ Title	_____ Date

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on Page 3 of this form.

_____ Signature of Employee	_____ Address	_____ <u>Email Address</u>	_____ Date
_____ Signature of Employee's Attorney	_____ Address	_____ <u>Email Address</u>	_____ Date

☐ Check box if no attorney retained.

North Carolina Industrial Commission
The Foregoing Agreement Is Hereby Approved:

_____ Claims Examiner	_____ Date
--------------------------	---------------

Attorney's fee approved

IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS

Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.

IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must apply to the Industrial Commission in writing within two years, or your right to these benefits may be lost. To apply you may also use Industrial Commission 18M, Employee's Application for Additional Medical Compensation (G.S. 97-25.1), available at <http://www.ic.nc.gov/forms.html>.

IMPORTANT NOTICE TO EMPLOYER

The employee must be provided a copy when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The employer or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.

NEED ASSISTANCE?

If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.

Form 26A

~~7/2015~~ 6/2020

Self-Insured Employer or Carrier Mail to:
NCIC - Claims Administration
4335 Mail Service Center
Raleigh, North Carolina 27699-4335
Main Telephone: (919) 807-2500
Helpline: (800) 688-8349
Website: <http://www.ic.nc.gov/>

(b) A copy of the form described in Paragraph (a) of this Rule can be accessed at <http://www.ic.nc.gov/forms/form26a.pdf>. The form may be reproduced only in the format available at <http://www.ic.nc.gov/forms/form26a.pdf> and may not be altered or amended in any way.

Authority G.S. 97-30; 97-31; 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77.

TITLE 14B – DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Crime Victims Compensation Commission intends to readopt without substantive changes the rules cited as 14B NCAC 09 .0301-.0305.

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

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

Proposed Effective Date: May 1, 2020

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Request a hearing from the rule making coordinator by January 30, 2020. Send to Will Polk, Office of General Counsel, 4201 Mail Service Center, Raleigh, NC 27699-4201; phone: 919-825-2706; email: will.polk@ncdps.gov.*

Reason for Proposed Action: *This action is readopting the Crime Victim Compensation rules that were subject to the periodic review process as set in G.S. 150B-21.3A(c)(2)g.*

Comments may be submitted to: Cheryl Walker, NC Department of Public Safety, Office of General Counsel, 4201 Mail Service Center, Raleigh, NC 27699-4201

Comment period ends: March 16, 2020

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

CHAPTER 09 - DIVISION OF VICTIMS SERVICES

SECTION .0300 - CRIME VICTIMS COMPENSATION COMMISSION

**14B NCAC 09 .0301 ADMINISTRATION
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 09 .0302 PROCESSING AND PAYMENT
OF CLAIMS (READOPTION WITHOUT SUBSTANTIVE
CHANGES)**

**14B NCAC 09 .0303 MEETINGS OF THE
COMMISSION (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

**14B NCAC 09 .0304 CONTESTED CASES
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 09 .0305 AWARDS (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

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

**SUBCHAPTER 10A - WILDLIFE RESOURCES
COMMISSION**

**TITLE 15A – DEPARTMENT OF ENVIRONMENTAL
QUALITY**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to adopt the rule cited as 15A NCAC 10A .1601.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncwildlife.org/Proposed-Regulations>

Proposed Effective Date: July 1, 2020

Public Hearing:

Date: February 19, 2020

Time: 10:00 a.m.

Location: WRC Headquarters, 1751 Varsity Drive, Raleigh, NC 27606

Reason for Proposed Action: This proposed permanent rule will replace the temporary License Fee Rule.

Comments may be submitted to: Rulemaking Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email regulations@ncwildlife.org

Comment period ends: March 16, 2020

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

**SECTION 1600 - WILDLIFE RESOURCES COMMISSION
FEES**

15A NCAC 10A .1601 LICENSE FEES.

(a) License fees established by the Commission in this Rule shall be subject to the requirements of G.S. 113-270.1B(e).

(b) The following fees shall apply to combination hunting and inland fishing licenses issued by the Commission, as set forth in G.S. 113-270.1C:

- (1) Resident Annual Combination Hunting and Inland Fishing License - \$35.00.
- (2) Resident Disabled Veteran Lifetime Combination Hunting and Inland Fishing License - \$11.00.
- (3) Resident Totally Disabled Lifetime Combination Hunting and Inland Fishing License - \$11.00.

(c) The following fees shall apply to sportsman licenses issued by the Commission, as set forth in G.S. 113-270.1D:

- (1) Annual Sportsman License - \$53.00.
- (2) Infant Lifetime Sportsman License - \$212.00.
- (3) Youth Lifetime Sportsman License - \$371.00.
- (4) Adult Resident Lifetime Sportsman License - \$530.00.
- (5) Nonresident Lifetime Sportsman License - \$1,272.00.
- (6) Age 70 Resident Lifetime Sportsman License - \$16.00.
- (7) Resident Disabled Veteran Lifetime Sportsman License - \$106.00.
- (8) Resident Totally Disabled Lifetime Sportsman License - \$106.00.

(d) The following fees shall apply to hunting licenses issued by the Commission, as set forth in G.S. 113-270.2:

- (1) Resident State Hunting License - \$25.00.
- (2) Lifetime Resident Comprehensive Hunting License - \$265.00.
- (3) Controlled Hunting Preserve Hunting License - \$22.00.
- (4) Resident Annual Comprehensive Hunting License - \$39.00.
- (5) Nonresident State Hunting Licenses:
 - (A) Season License - \$100.00.
 - (B) Ten-Day License - \$80.00.
- (6) Falconry Hunting License - \$25.00.

(e) The following fees shall apply to special activity licenses issued by the Commission, as set forth in G.S. 113-270.3:

- (1) Resident Big Game Hunting License - \$14.00.
- (2) Nonresident Bear Hunting License - \$239.00.
- (3) Bear Management Stamp - \$11.00.
- (4) Nonresident Big Game Hunting License:
 - (A) Season License - \$100.00.
 - (B) Ten-Day License - \$80.00.

- (5) Bonus Antlerless Deer License - \$11.00.
- (6) Game Land License - \$16.00.
- (7) Falconry License - \$11.00.
- (8) Migratory Waterfowl Hunting License - \$14.00.
- (9) Resident American Alligator License - \$250.00.
- (10) Nonresident American Alligator License - \$500.00.
- (11) Resident Elk License - \$500.00.
- (12) Nonresident Elk License - \$1,000.00.

(f) The following fees shall apply to hunting and fishing guide licenses issued by the Commission, as set forth in G.S. 113-270.4:

- (1) Resident Hunting and Fishing Guide License - \$16.00.
- (2) Nonresident Hunting and Fishing Guide License - \$159.00.

(g) The following fees shall apply to trapping licenses issued by the Commission, as set forth in G.S. 113-270.5:

- (1) Resident State Trapping License - \$32.00.
- (2) Resident Lifetime Trapping License - \$300.00.
- (3) Nonresident State Trapping License - \$133.00.

(h) The following fees shall apply to hook-and-line licenses in inland and joint fishing waters issued by the Commission, as set forth in G.S. 113-271:

- (1) Resident State Inland Fishing License - \$25.00.
- (2) Lifetime Resident Comprehensive Inland Fishing License - \$265.00.
- (3) Nonresident State Inland Fishing License - \$45.00.
- (4) Short-Term Inland Fishing License:
 - (A) Resident 10-day Inland Fishing License - \$9.00.
 - (B) Nonresident 10-day Inland Fishing License - \$23.00.
- (5) Age 70 Resident Lifetime Inland Fishing License - \$16.00.
- (6) Resident Disabled Veteran Lifetime Inland Fishing License - \$11.00.
- (7) Resident Totally Disabled Lifetime Inland Fishing License - \$11.00.
- (8) Special Landholder and Guest Fishing License - \$106.00.
- (9) Mountain Heritage Trout Waters 3-Day Fishing License - \$8.00.

(i) The following fees shall apply to special device licenses issued by the Commission, as set forth in G.S. 113-272.2:

- (1) Resident Special Device License - \$80.00.
- (2) Nonresident Special Device License - \$530.00.

(j) The fee for a collection license issued by the Commission, as set forth in G.S. 113-272.4 shall be \$10.00.

(k) The following fees shall apply to captivity licenses issued by the Commission, as set forth in G.S. 113-272.5:

- (1) Captivity License for Holding - \$50.00.
- (2) Captivity License for Rehabilitation - \$10.00.

(l) The following fees shall apply to dealer licenses issued by the Commission as set forth in G.S. 113-273:

- (1) Resident Fur-dealer License - \$64.00.
- (2) Nonresident Fur-dealer License - \$318.00.

- (3) Fur-dealer Station License - \$128.00.
- (4) Controlled Hunting Preserve Operator License - \$100.00.
- (5) Game Bird Propagation License - \$10.00.
- (6) Furbearer Propagation License - \$27.00.
- (7) Taxidermy License - \$50.00.
- (8) Taxidermy Cervid Certification - \$5.00.
- (9) Wildlife Control Agent License - \$50.00.
- (10) Alligator Control Agent Certification - \$25.00.

(m) The following fees shall apply to permits issued by the Commission, as set forth in G.S. 113-274:

- (1) Possession Permit - \$10.00.
- (2) Exportation or Importation Permit - \$10.00.
- (3) Trophy Wildlife Sale Permit - \$10.00.
- (4) Endangered Species Permit - \$10.00.
- (5) Field Trial Permit - \$10.00.

(n) Unified hunting and fishing licenses issued by the Commission, as set forth in G.S. 113-351:

- (1) Annual Resident Unified Sportsman/Coastal Recreational Fishing License - \$69.00.
- (2) Annual Resident Unified Inland/Coastal Recreational Fishing License - \$41.00.
- (3) Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses:
 - (A) Infant Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$292.00.
 - (B) Youth Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$477.00.
 - (C) Resident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$716.00.
 - (D) Nonresident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$1,643.00.
 - (E) Resident Age 70 Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$32.00.
 - (F) Resident Disabled Veteran Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$117.00.
 - (G) Resident Totally Disabled Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$117.00.

- (4) Resident Lifetime Unified Inland/Coastal Recreational Fishing License - \$477.00.

(o) The following fees shall apply to Coastal Recreational Fishing Licenses issued by the Commission, as set forth in G.S. 113-174.2:

- (1) Annual Resident Coastal Recreational Fishing License - \$16.00.
- (2) Annual Nonresident Coastal Recreational Fishing License - \$32.00.
- (3) Ten-Day Resident Coastal Recreational Fishing License - \$6.00.

PROPOSED RULES

- (4) Ten-Day Nonresident Coastal Recreational Fishing License - \$11.00.
- (5) Infant Lifetime Coastal Recreational Fishing License - \$106.00.
- (6) Youth Lifetime Coastal Recreational Fishing License - \$159.00.
- (7) Resident Adult Lifetime Coastal Recreational Fishing License - \$265.00.
- (8) Nonresident Adult Lifetime Coastal Recreational Fishing License - \$530.00.

- (9) Resident Age 70 Lifetime Coastal Recreational Fishing License - \$16.00.
- (10) Resident Disabled Veteran Coastal Recreational Fishing License - \$11.00.
- (11) Resident Totally Disabled Coastal Recreational Fishing License - \$11.00.

Authority G.S. 113-270.1B(e).

Note from the Codifier: The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.
This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

TITLE 08 – STATE BOARD OF ELECTIONS

Rule-making Agency: State Board of Elections

Rule Citation: 08 NCAC 17 .0109

Effective Date: January 1, 2020

Date Approved by the Rules Review Commission: December 19, 2019

Reason for Action: The effective date of recent act of the General Assembly or of the U.S. Congress. Sections 1.2(b), 1.3.(a), and 1.6 of Session Law 2019-239, Eff. January 1, 2020 (signed into law on November 6, 2019).

The State Board initially adopted temporary rule 08 NCAC 17 .0109 implementing the inclusion of photo ID for absentee by-mail voting in August 2019. The rule provided for methods of submission of the voter's copy of their ID or alternative affidavit with the absentee request or with the voted ballot. Subsequently, Session Law 2019-239 changed the requirements for photo ID for absentee by mail voting, providing that the photo ID requirement can be met only with the return of the absentee ballot and not with the request form, and requiring that the State Board adopt rules to implement the changes. Therefore, it is necessary for the Board to amend the previously adopted temporary rule.

G.S. 150B-21.1(a)(11)b. authorizes the State Board to adopt temporary rules "after prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical" to "implement the provisions of state or federal law for which the State Board of Elections has been authorized to adopt such rules." As such, it is the agency's belief, in consultation with Rules Review Commission staff, that temporary rules adopted under this authority are subject to notice and hearing requirements but are not subject to the timeline set forth in G.S. 150B-21.1(a3).

CHAPTER 17 - PHOTO IDENTIFICATION

08 NCAC 17 .0109 PHOTO IDENTIFICATION FOR ABSENTEE BALLOTS

(a) Definitions. The following definitions apply to this Rule:

- (1) "Readable" means that the name on the identification can be read and that the photograph is not blurry and depicts a person who is distinct and distinguishable from another person.
- (2) "Copy" means a duplicate of an original document, including a photographic copy of the original document. It does not include displaying an image on an electronic device.

(b) Identification Requirement for Absentee Ballot Request Form. A completed written request form for an absentee ballot

shall include a readable electronic or physical copy of the identification required by G.S. 163A-1145.1(a) displaying a name that is the same or substantially equivalent to the name contained in the registration record as provided in 08 NCAC 17 .0101(c)(4). The election official shall make this determination based on the totality of the circumstances, construing all evidence, along with any explanation or documentation voluntarily proffered by the person presenting to vote, in the light most favorable to that person. The election official shall not require any additional evidence outside the four corners of the photo identification. If the name on the identification is substantially similar to the name listed on the registration record and the identification is readable, the county board of elections shall presume that the person depicted in the photograph on the identification provided is the voter. It is not required that the address on the identification match the residential address provided on the request form or the address on the registration record.

(e) Exceptions. The exceptions provided in G.S. 163A-1145.1(d) for voters voting in person shall apply to absentee by mail voters. The reasonable impediment exception under G.S. 163A-1145.1(d)(2) shall include lack of access to a method to attach an electronic or physical copy of the identification card to the request. The following additional exceptions shall apply to absentee by mail voters:

- (1) Religious Objection Exception. After the voter's ballot is counted, if a voter claims the religious objection exception under G.S. 163A-1145.1(d)(1) and completes the prescribed affidavit, the religious objection exception shall be noted on the voter's registration record. In future elections that voter shall not be required to show photo identification under G.S. 163A-1145.1 or this Rule, or claim an exception under G.S. 163A-1145.1(d), until the voter either:
 - (A) notifies the county board of elections in writing that the voter no longer holds a religious objection to being photographed;
 - (B) provides photo identification in a future election; or
 - (C) claims an exception under G.S. 163A-1145.1(d)(2) or (d)(3) in a future election.
- (2) Annual Requests by Persons with Sickness or Physical Disability. If an applicant for an absentee request form reports in the application that the voter has a sickness or physical disability that is expected to last the remainder of the calendar year pursuant to G.S. 163A-1295(b) and satisfies the photo identification requirement under Paragraph (b) of this Rule or the voter completes an alternative affidavit

- (3) ~~pursuant to G.S. 163A-1145.1(d), the photo identification requirement shall be met for all of the primaries and elections held during the calendar year when the application is received. Applications for Absentee Ballots for Voting in Second Primary or Runoff Election. A voter who is automatically issued an application and absentee ballot for a second primary pursuant to G.S. 163A-1299 or a runoff election shall not be required to submit a copy of acceptable photo identification under Paragraph (b) of this Rule or claim an exception under G.S. 163A-1145(d) with the absentee ballot and container return envelope for the second primary or runoff election.~~
- (4) ~~Covered Voters Under the Uniform Military and Overseas Voter Act. A covered voter who is casting a ballot pursuant to Part 2 of Article 21 of Chapter 163A of the General Statutes shall not be required to submit a copy of acceptable photo identification under Paragraph (b) of this Rule or claim an exception under G.S. 163A-1145(d).~~

~~(d) Delivery of Absentee Ballots and Certification Form. If a voter is confirmed as a registered voter of the county, the absentee ballots and certification form shall be mailed to the voter, unless personally delivered in accordance with G.S. 163A-1308(b), even if the voter does not provide the identification required by G.S. 163A-1309(a)(4) and this Rule with the request. However, the voter shall provide identification or claim an exception under G.S. 163A-1145.1(d) prior to the counting of the voter's absentee ballot. If the voter provides the identification required by this Rule or claims an exception under G.S. 163A-1145.1(d) with the absentee ballot request form, the voter is not required to attach additional documentation to the container return envelope.~~

~~(e) Valid Absentee Ballot Request Forms Requiring Further Action.~~

- (1) ~~The county board of elections shall include with the absentee ballots and certification form a letter notifying the voter that the voter's request is valid under G.S. 163A-1309(a) but that further action is needed by the voter to comply with the identification requirements, if any of the following apply:~~
- ~~(A) The voter does not submit the identification required by G.S. 163A-1309(a)(4).~~
 - ~~(B) The voter does not claim an exception under G.S. 163A-1145.1(d).~~
 - ~~(C) The voter includes an unreadable copy of the identification required by G.S. 163A-1309(a)(4).~~
 - ~~(D) The identification does not meet the expiration date requirements under G.S. 163A-1145.1(a).~~
 - ~~(E) The voter provides a type of identification not listed under G.S. 163A-1145.1(a).~~

- ~~(F) The voter provides identification displaying a name that is not the same as or substantially similar to the name on the voter record as required pursuant to Paragraph (b) of this Rule.~~
 - ~~(G) The exception affidavit is incomplete, either because there is no signature or, in the case of a reasonable impediment exception under G.S. 163A-1145.1(d)(2), the voter did not complete the reasonable impediment declaration form under G.S. 163A-1145.1(d1).~~
 - ~~(H) The voter indicates she or he will provide identification at a later time.~~
- (2) ~~The letter required in Subparagraph (1) of this Paragraph shall provide the voter with the following options:~~
- ~~(A) At any point between the submission of the absentee ballot request form and 5:00 P.M. on the day before the county canvass, provide the documentation necessary to comply with the identification requirements via email, mail, or in person.~~
 - ~~(B) Attach to the absentee ballot container return envelope the documentation necessary to comply with the identification requirements pursuant to G.S. 163A-1307(b)(8).~~

~~(f) Counting of Absentee Ballots. Prior to the transmission of absentee ballots pursuant to G.S. 163A-1308(e), the county board of elections shall notate the voter's ID status on the container return envelope for a voter who requires further action pursuant to Subparagraph (e)(1) of this Rule. The county board of elections shall, at the first meeting held pursuant to G.S. 163A-1308(f) to pass upon applications for absentee ballots after the absentee ballot is received, consider whether the voter has complied with the photo identification requirements in G.S. 163A-1145.1(a) and this Rule or whether an exception applies under G.S. 163A-1145.1(d). In its determination, the county board shall construe all evidence in the light most favorable to the voter. If an exception applies, the county board of elections shall review the affidavit provided. Absent any other reason provided by law for disapproving absentee ballots, if the county board of elections determines that the registered voter is unable to provide proof of identification and the voter has completed the required affidavit in G.S. 163A-1145.1(d), the county board of elections shall find that the absentee ballot is valid unless the county board has grounds to believe the affidavit is false. A decision that the absentee ballot is not approved because the affidavit provided under G.S. 163A-1145.1(d) is false shall require a unanimous vote by the county board of elections. If the voter fails to submit acceptable photo identification pursuant to G.S. 163A-1145.1(a) and this Rule or fails to submit a completed alternative affidavit pursuant to G.S. 163A-1145.1(d) with the container return envelope, the mailed ballot shall be treated in the same manner as a mail in absentee ballot under G.S. 163A-1144(e).~~

(g) Photocopy Requirement. The county board of elections shall allow any person seeking to vote by absentee ballot the use of a photocopying device to make one photocopy of the voter's form of photo identification.

(h) Return of original form of identification. If a voter sends his or her original form of photo identification with either the absentee request form or in the container return envelope, the county board of elections shall make a photocopy of the identification and mail the identification back to the voter.

(i) Retention of Copies of Photo Identification and Exception Affidavits. Copies of photo identification and alternative affidavits shall be retained according to the same schedule for absentee ballot applications under G.S. 163A-1313, except that copies of religious objection affidavits shall be retained in the Statewide computerized voter registration system maintained under G.S. 163A-874 until the voter ends this exemption pursuant to the methods listed in Parts (e)(1)(A) through (C).

(a) Definitions. The following definitions apply to this Rule:

- (1) "Readable" means that the name on the identification can be read and that the photograph is not blurry and depicts a person who is distinct and distinguishable from another person.
- (2) "Copy" means a duplicate of an original document, including a photographic copy of the original document. It does not include displaying an image on an electronic device.
- (3) "Verifiable legal guardian" has the same meaning as in G.S. 163-226(e).
- (4) "Near relative" has the same meaning as in G.S. 163-226(f).

(b) Identification Requirement for Absentee by Mail Ballots. Each container-return envelope returned to the county board of elections with application and voted ballots shall include a copy of the identification required by G.S. 163-166.16(a) or an affidavit as described in G.S. 163-166.16(d)(1), (d)(2), or (d)(3). The copy of identification must be readable and must display a name that is the same or substantially equivalent to the name contained in the registration record as provided in 08 NCAC 17 .0101(c)(4). It is not required that the address on the identification match the residential address provided on the request form or the address on the registration record.

(c) Incomplete Application for a Photo Identification-Related Reason. If the county board of elections receives an absentee application and voted ballots prior to the deadline provided in G.S. 163-231(b), its staff shall make an initial assessment of whether the voter provided a copy of photo identification and if not, whether the voter completed an alternative affidavit. If, after this initial assessment, the copy of the photo identification is not readable, the voter did not provide a copy of photo identification or an alternative affidavit, or the alternative affidavit is not signed or is otherwise not complete, the county board of elections staff shall notify the voter in writing that the voter, the voter's verifiable legal guardian, or the voter's near relative may mail or bring in person the voter's acceptable photo identification under G.S. 163-166.16(a), a readable copy of the voter's acceptable photo identification, or a completed alternative affidavit, to the county board of elections by the deadline specified in G.S. 163-82.4(f).

(d) Exceptions. The exceptions provided in G.S. 163-166.16(d) for voters voting in person shall apply to absentee by mail voters. The reasonable impediment exception under G.S. 163-166.16(d)(2) shall include lack of access to a method to attach a physical copy of the identification card to the request. A covered voter who is casting a ballot pursuant to G.S. 163, Article 21A, Part 1 is not required to submit a copy of acceptable photo identification under Paragraph (b) of this Rule or claim an exception under G.S. 163-166.16(d).

(e) Counting of Absentee Ballots. The county board of elections shall, at the first meeting held after the ballot is received pursuant to G.S. 163-230.1(f) to pass upon applications for absentee ballots, consider whether the voter has complied with the photo identification requirements as follows:

- (1) Review of photo identification. The county board of elections shall review the photo identification submitted and shall determine the following:
 - (A) That the photo identification is readable as defined in Subparagraph (a)(1);
 - (B) That the photo identification meets the expiration date requirements provided in G.S. 163-166.16(a); and
 - (C) That the name appearing on the photo identification is the same or substantially equivalent to the name contained in the registration record pursuant to 08 NCAC 17 .0101(c)(4). If the name on the identification is substantially equivalent to the name listed on the registration record, the county board of elections shall presume that the person depicted in the photograph on the identification provided is the voter.

In making its determination under this Subparagraph, the county board of elections shall not require any additional evidence outside the four corners of the photo identification and shall make the determination based on the totality of the circumstances, construing all evidence in the light most favorable to the voter. A decision that the absentee ballot is not approved because the name listed on the photo identification is not the same as or substantially equivalent to the name on the registration record shall require a unanimous vote by the county board of elections.

- (2) Review of alternative affidavit. Absent any other reason provided by law for disapproving absentee ballots, if the voter has completed the required affidavit in G.S. 163-166.16(d), the county board of elections shall find that the absentee ballot is valid unless the county board has grounds to believe the affidavit is false. A decision that the absentee ballot is not approved because the affidavit provided under G.S. 163-166.16(d) is false shall require a unanimous vote by the county board of elections.

If the voter fails to submit in the container-return envelope a copy of acceptable photo identification pursuant to G.S. 163-166.16(a) or an alternative affidavit under G.S. 163-166.16(d), the copy of the photo identification is not readable, or the alternative affidavit is not signed or is otherwise not complete, the mailed ballot shall be treated in the same manner as a mail-in absentee ballot under G.S. 163-166.12(e). The voter, the voter's verifiable legal guardian, or the voter's near relative may mail or bring in person the voter's acceptable photo identification under G.S. 163-166.16(a), a readable copy of the voter's acceptable photo identification, or a completed alternative affidavit, to the county board of elections by the deadline specified in G.S. 163-82.4(f).

(f) Photocopy Requirement. The county board of elections shall allow any person seeking to vote by absentee ballot the use of a photocopying device to make one photocopy of the voter's form of photo identification.

(g) Return of Original Form of Identification. If a voter sends his or her original form of photo identification in the container-return envelope, the county board of elections shall make a photocopy of the identification and mail the identification back to the voter.

(h) Retention of Copies of Photo Identification and Alternative Affidavits. Copies of photo identification and alternative affidavits shall be retained according to the same schedule for absentee ballot applications under G.S. 163-233. Copies of photo identification associated with the absentee ballot are not public record. The alternative affidavit is a public record, but the voter's signature may only be viewed in the county board of elections office and cannot be copied or traced.

History Note: Authority G.S. ~~163A-1145.1; 163A-1307; 163A-1309(f); 163A-1319; 163-166.16; 163-230.1; 163-233; S.L. 2018-144, s. 1.2.(e), (i); S.L. 2019-239;~~
Temporary Adoption Eff. January 1, 2020; August 23, 2019.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 12 – LICENSING BOARD FOR GENERAL CONTRACTORS

Rule-making Agency: *State Licensing Board for General Contractors*

Rule Citation: 21 NCAC 12A .0304, .0503; 12B .0101-.0105, .0201-.0206, .0301-.0303, and .0401-.0403

Date Approved by the Rules Review Commission: *December 19, 2019*

Reason for Action: *The effective date of a recent act of the General Assembly or of the U.S. Congress. S.L. 2019-72, Eff. July 1, 2019.*
S.L. 2019-72 implemented continuing education for certain classifications of licensed general contractors.

SUBCHAPTER 12A – GENERAL PROVISIONS

SECTION .0300 – APPLICATION PROCEDURE

21 NCAC 12A .0304 FEES

(a) The Board shall charge the following ~~fees:~~ fees related to license applications:

- (1) Application for limited license: \$75.00;
- (2) Application for intermediate license: \$100.00;
- (3) Application for unlimited license: \$125.00;
- (4) Application for increase in limitation: \$100.00 for increase to intermediate license and \$125.00 for increase to unlimited license; and
- (5) Late renewal: \$10.00 per month for every month or part after the first day of January.

(b) The Board shall charge the following fees related to continuing education:

- (1) Course Sponsor:
 - (A) Initial review: \$25.00 per credit hour requested; and
 - (B) Subsequent annual review: \$10.00 per credit hour requested.
- (2) Qualifier Completion: \$4.00 per credit hour per ~~qualifier/qualifying party~~ qualifier who completes an approved continuing education course. This fee shall be paid by the course sponsor.

~~(b)(c)~~ All fees charged by the Board shall be non-refundable.

History Note: Authority G.S. 87-1; 87-10; 87-10.2(i);
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. January 1, 1983;
Repealed Eff. May 1, 1989;
Codifier approved agency's waiver request to reuse rule number;
Eff. April 1, ~~2018; 2018;~~
Recodified from 21 NCAC 12 .0304 Eff. January 2, 2020;
Temporary Amendment Eff. January 7, 2020.

SECTION .0500 – LICENSE

21 NCAC 12A .0503 RENEWAL OF LICENSE

(a) Applications for renewal of license shall contain the following:

- (1) the Social Security Number of the applicant and qualifier(s) and tax identification number for corporations, LLCs, or partnerships;
- (2) the applicant's contact information;
- (3) the name of business under which licensee will be operating, if any;
- (4) information regarding any changes made in the status of the licensee's business, since the initial application or last renewal was submitted to the Board, whichever is later;
- (5) confirmation of license limitation and classifications;
- (6) information about all crimes of which the applicant has been convicted since the initial application or last renewal was submitted to the Board, whichever is later;
- (7) documentation regarding all crimes referenced above;

- (8) information indicating whether the applicant has any disciplinary history with any other occupational licensing, registration, or certification agency since the initial application or last renewal was submitted to the Board, whichever is later;
- (9) an attestation that the applicant maintains continued financial responsibility pursuant to Rule .0204 of this Chapter;
- (10) if applicable, proof that the surety bond is maintained in compliance with Rule .0204 of this Chapter; ~~and~~
- (11) if applicable, necessary, proof of completion of continuing education requirements; and
- ~~(11)(12)~~ the application fee and any accrued late fees as set forth in Rule .0304 of this Chapter.

(b) A licensee shall submit an audited financial statement as evidence of continued financial responsibility in accordance with Rule .0204 of this Chapter if the Board finds that the licensee is insolvent, financially unstable, or unable to meet its financial responsibilities based upon the information provided in the renewal application.

(c) A licensee shall provide the Board with a copy of any bankruptcy petition filed by the licensee within 30 days of its filing. A licensee in bankruptcy shall provide to the Board an agreed-upon procedures report on a form provided by the Board or an audited financial statement with a classified balance sheet as part of any application for renewal.

(d) A corporate license shall not be renewed unless it is in good standing with the N.C. Department of the Secretary of State.

(e) Upon receipt of a written request by or on behalf of a licensee who is currently in good standing with the Board, is serving in the armed forces of the United States, and to whom G.S. 105-249.2 grants an extension of time to file a tax return, the Board shall grant that same extension of time for complying with renewal application deadlines, for paying renewal fees, and for meeting any other requirement or conditions related to the maintenance or renewal of the license issued by the Board. The applicant shall furnish to the Board a copy of the military orders or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue.

History Note: Authority G.S. 87-1; 87-4; 87-10; 87-10.2; 87-12; 87-13; 93B-15;
Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
ARRC Objection March 19, 1987;
Amended Eff. May 1, 1989; August 1, 1987;
Temporary Amendment Eff. June 28, 1989 for a period of 155 Days to Expire on December 1, 1989;
Amended Eff. December 1, 1989;
RRC Removed Objection of March 19, 1987 Eff. August 20, 1992 based on subsequent amendment;
Amended Eff. September 1, 1992;
Temporary Amendment Eff. May 31, 1996;
Amended Eff. April 1, 2014; June 1, 2011; June 1, 2003; April 1, 2003; August 1, 2002; April 1, 1997;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Amended Eff. September 1, 2019; April 1, ~~2018~~; 2018;
Recodified from 21 NCAC 12 .0503 Eff. January 2, 2020;
Temporary Amendment Eff. January 2, 2020.

SUBCHAPTER 12B – CONTINUING EDUCATION

SECTION .0100 – GENERAL

21 NCAC 12B .0101 GENERAL

(a) To ensure continuing efforts on the part of licensed general contractors to remain current with new developments in all aspects of general contracting and to encourage better business practices and safety in the profession, continuing education is required as a condition of license renewal. If ~~required~~, required pursuant to G.S. 87-10.2(a), a licensee shall submit, as a part of his or her renewal application, evidence that he or she has met the Board's continuing education requirements as set forth in this Section. Except as provided in Rule .0104 of this Subchapter, renewal applications that do not contain this information shall be deemed incomplete.

(b) This Subchapter shall apply to all aspects of continuing education as set forth in G.S. 87-10.2.

(c) For the purposes of this Subchapter, the terms "sponsor" and "provider" shall be synonymous.

History Note: Authority G.S. 87-10.2;
Temporary Adoption Eff. January 2, 2020.

21 NCAC 12B .0102 CONTINUING EDUCATION CREDIT

(a) Beginning with renewals filed for the 2021 license year, a licensee shall designate at least one qualifier who shall complete eight continuing education (CE) hours during the year preceding renewal.

(b) For the purposes of this Subchapter, "elective courses" are defined as courses relating directly to the subject matter of general contracting as described in G.S. 87-1 and 87-10 and relate to that address general business practices, including business planning, contracts, liability exposure, human resources, basic accounting, financial statements, and safety.

(c) One credit hour is equal to 50 minutes of instructional time.

History Note: Authority G.S. 87-1; 87-10; 87-10.2;
Temporary Adoption Eff. January 2, 2020.

21 NCAC 12B .0103 CONTINUING EDUCATION RECORDS; AUDIT

(a) A licensee shall maintain records of a qualifier's attendance at continuing education programs for which CE credit has been approved for four years following the processing date of the renewal application to which the CE credits were applied.

(b) Compliance with annual CE requirements shall be determined through a random audit process conducted by the Board. Licensees selected for auditing shall provide the Board with the following documentation of the CE activities claimed for the renewal period:

- (1) ~~Attendance~~ attendance verification records; and

- (2) ~~Information~~ information regarding course content, instructors, and sponsoring organization.

(c) Licensees selected for audit shall submit all requested information to the Board within 21 calendar days after the date the licensee was notified by the Board of the audit.

(d) Failure to maintain compliance with the Board's continuing education requirements shall result in the licensee's status being changed to invalid except as set forth in G.S. 87-10.2(h).

*History Note: Authority G.S. 87-10.2(h);
Temporary Adoption Eff. January 2, 2020.*

21 NCAC 12B .0104 EXTENSION OF TIME

(a) The Board shall grant a licensee an extension of time to complete CE requirements during a period of service in the Armed Forces of the United States upon submission of the following to the Board:

- (1) ~~Written~~ written request for an extension; and
- (2) ~~Documentation~~ documentation that the licensee or his or her qualifier is serving in the Armed Forces of the United States and is eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2.

(b) The Board shall grant a licensee an extension of time to obtain CE requirements if he or she or his or her qualifier has a disability or illness that prevents him or her from complying with CE requirements. In order to receive the waiver, a licensee shall provide the Board with the following:

- (1) ~~Written~~ written request for waiver; and
- (2) ~~Documentation~~ documentation that describes the disability or illness and explains how the disability or illness prevents the licensee's qualifier from complying with the Board's CE requirements. Documentation includes a letter from a licensed physician, nurse practitioner (NP), or physician assistant (PA).

(c) Where on a case-by-case basis the Board determines that due to an undue hardship (such as ~~active military service, natural disaster, disaster or illness of family member~~) the licensee could not reasonably be expected to comply with the Board's CE requirements, the licensee shall be granted an extension of time in which to obtain the required CE credits. To be considered for an extension of time, a licensee shall submit the following:

- (1) ~~Written~~ written request for extension; and
- (2) ~~Documentation~~ documentation that supports the reason for the extension.

(d) The Board shall grant a waiver of CE requirements upon submission of documentation that a licensee or his or her qualifier is in active duty while serving in the Armed Forces and is or has been deployed for at least eight months during the twelve-month period during which CE credits were required.

(e) An extension granted under Paragraphs (b) or (c) of this Rule shall not exceed one year. Prior to the expiration of the one year extension of time, a licensee may request an additional extension in accordance with this Rule. Except as set out in Paragraph (a) of this Rule, the Board shall grant no more than two consecutive extensions.

*History Note: Authority G.S. 87-10.2(j); 93B-15; 105-249.2;
Temporary Adoption Eff. January 2, 2020.*

21 NCAC 12B .0105 INACTIVE STATUS

(a) Applications for inactive status as described in G.S. 87-10.2(h) shall contain the following:

- (1) ~~License~~ license name and number issued by the Board;
- (2) ~~Name(s)~~ name(s) of qualifier(s);
- (3) ~~If if required, proof of active license status with the Board; and~~
- (4) ~~Certification~~ certification that the individual submitting the request is authorized by the licensee to do so.

(b) If a licensee on inactive status fails to renew his or her license as of January 1 of the following year, the license ~~will~~ shall become invalid in accordance with Article 1, Chapter 87 and the rules set forth in 21 NCAC 12A.

(c) ~~Applications to lift inactive status and return to active status shall contain the following:~~ A licensee on inactive status who wishes to return to active status shall submit an application to the Board that contains the following information:

- (1) ~~License~~ license name and number issued by the Board;
- (2) ~~Name(s)~~ name(s) of qualifier(s) and the classifications in which they qualify;
- (3) ~~If applicable, application renewal fee and and, if applicable, late fees as set out in G.S. 87-10(e) and 21 NCAC 12A .0304; and~~
- (4) ~~Proof~~ proof of completion of continuing education requirements as set forth in G.S. 87-10.2(h).

*History Note: Authority G.S. 87-1; 87-10; 87-10.2(h);
Temporary Adoption Eff. January 2, 2020.*

SECTION .0200 – PROVIDERS

21 NCAC 12B .0201 APPLICATION FOR INITIAL APPROVAL OF CONTINUING EDUCATION PROVIDER

(a) Only continuing education providers approved by the Board shall be eligible to offer continuing education courses.

(b) Prospective providers of all courses must obtain written approval from the Board to conduct such course prior to conducting the course and prior to advertising or otherwise representing that the course is or may be approved for general contractor continuing education credit in North Carolina. No retroactive approval to conduct a continuing education course will be granted.

(c) Any entity seeking initial approval to be a continuing education provider shall make application on a form available on the Board's website that requires the applicant to set forth:

- (1) the legal name of applicant and any assumed business name;
- (2) the applicant's mailing address, telephone number, and email address;
- (3) the SOS ID number issued by the NC Secretary of State, if applicable;

- (4) the legal name(s) of the provider's owner(s), member(s), manager(s), or partner(s);
- (5) the name of a continuing education coordinator who shall serve as the contact person for the provider; and
- (6) the signature of the applicant or its legal designee.

(d) The name of any course provider shall not be identical or similar so as to cause confusion to the name of any other approved continuing education course provider.

(e) Continuing education providers shall notify the Board in writing within 10 days of any change in business name, ownership interest, continuing education coordinator, address, business telephone number, or email address.

*History Note: Authority G.S. 87-10.2(c);
Temporary Adoption Eff. January 2, 2020.*

21 NCAC 12B .0202 EXPIRATION AND RENEWAL OF PROVIDER APPROVAL

(a) All Board approvals issued to providers shall expire annually on December 1 following issuance of approval.

(b) A provider shall submit an application for renewal of its approval within 45 days immediately preceding expiration of approval on a form available on the Board's website. The provider renewal application form shall include:

- (1) the provider's name;
- (2) the provider ID number issued by the Board;
- (3) the name of the provider's designated continuing education coordinator;
- (4) the provider's mailing address, telephone number, and web address, if applicable;
- (5) any change in the provider's business entity; and
- (6) the signature of the provider or its legal designee.

(c) If a provider's approval has expired, the provider shall submit an application as a new applicant.

*History Note: Authority G.S. 87-10.2;
Temporary Adoption Eff. January 2, 2020.*

21 NCAC 12B .0203 DENIAL OR WITHDRAWAL OF PROVIDER APPROVAL

(a) The Board may deny or withdraw approval of any continuing education provider upon finding that the provider or the continuing education coordinator in the employ of the provider:

- (1) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for course or provider approval or renewal;
- (2) made any false statements in course advertisement or promotional materials;
- (3) provided false, incomplete, or incorrect information in connection with any reports the continuing education provider is required to submit to the Board;
- (4) provided the Board a check or credit card for required fees that was not honored by a

financial institution or bank or returned for insufficient funds;

- (5) collected money from licensees and qualifiers for a continuing education course but refused or failed to provide the promised instruction;
- (6) intentionally provided false, incomplete, or misleading information relating to general contractors licensing, education matters, or the qualifier's education requirements or license status;
- (7) failed to submit the CE Roster Reports as required by Rule .0206 of this Subchapter;
- (8) failed to submit the per student fee as required by 21 NCAC 12A .0304; or
- (9) failed to comply with any other provision of this Chapter.

(b) A licensed general contractor and its qualifier(s) shall be subject to discipline pursuant to G.S. 87-11 if the licensee or its qualifier(s) engages in dishonest, fraudulent, or improper conduct in connection with the operations of a continuing education course provider if that licensee or qualifier(s):

- (1) has an ownership interest in the course provider;
- (2) is the designated continuing education coordinator for the course provider; or
- (3) is an instructor for the course provider.

(c) When ownership of an approved continuing education provider is transferred to a separate legal entity, the provider's approval is not transferable and shall terminate on the effective date of the transfer. All courses shall be completed by the effective date of the transfer. The transferring owner shall report course completion(s) to the Board. The new entity shall obtain an original continuing education provider approval as required by Rule .0202 of this Subchapter prior to advertising courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any provider operations.

*History Note: Authority G.S. 87-10.2(b) and (c);
Temporary Adoption Eff. January 2, 2020.*

21 NCAC 12B .0204 ATTENDANCE; ROSTER REPORTS AND CERTIFICATES

(a) Qualifiers shall provide proof of identity upon arrival at a class session.

(b) At the conclusion of any continuing education course, the provider shall submit to the Board a CE Roster Report verifying each qualifier's completion of the course. The CE Roster Report shall be submitted in a format prescribed by to the Board and shall contain the following:

- (1) provider's name;
- (2) provider's ID number assigned by the Board;
- (3) course instructor's name and ID number;
- (4) course's name and ID number;
- (5) course completion date; and
- (6) name and qualifier ID number of each student who completed the course.

(c) Providers shall submit the CE Roster Report electronically to the Board within seven calendar days following the end of any course, but in no case later than December 7.

- (d) Providers shall submit the per student fee required by 21 NCAC 12A .0304 with the CE Roster Report.
- (e) Providers shall provide a course completion certificate to each student who completes an approved continuing education course. Providers shall provide a printed or electronic certificate to a student within 10 days following the course, but in no case later than December 7, for any course completed prior to that date.
- (f) A student shall not be issued a completion certificate and shall not be reported to the Board as having completed a course unless the student satisfies the attendance requirements set forth in this Subchapter.
- ~~(g) Providers and instructors shall not make any exceptions to this Rule.~~

History Note: Authority G.S. 87-10.2(d) and (e);
Temporary Adoption Eff. January 2, 2020.

21 NCAC 12B .0205 COURSE SCHEDULING

Continuing education providers shall not offer, conduct, or allow a student to complete any ~~course and offer continuing education credit~~ course between December 1 and December 31, inclusive.

History Note: Authority G.S. 87-10.2(b);
Temporary Adoption Eff. January 2, 2020.

21 NCAC 12B .0206 RECORDS AND BOARD REVIEW

- (a) All providers shall retain on file for four years records of student registration and attendance for each session of an approved continuing education course that is conducted and shall make such records available to the Board upon request during an investigation.
- (b) Providers shall admit any Board authorized representative to monitor any continuing education class without prior notice. Such representatives shall not be required to register or pay any fee and shall not be reported as having completed the course.

History Note: Authority G.S. 87-10.2(b);
Temporary Adoption Eff. January 2, 2020.

SECTION .0300 – COURSES

21 NCAC 12B .0301 COURSE REQUIREMENTS

- (a) All continuing education courses shall:
- (1) cover subject matter related to the practice of general contracting and offer knowledge or skills that will enable general contractors to better serve consumers and the public interest;
 - (2) consist of two or four hours of instruction;
 - ~~(3)~~(2) offer two or four continuing education credit hours;
 - ~~(4)~~(3) include materials for students that provide the information to be presented in the course; and
 - ~~(5)~~(4) be taught only by an instructor who possesses education or experience in a field directly related to the course.
- (b) Mandatory courses shall cover subject matter as established by the Board. ~~Additionally, all supplemental materials distributed~~

~~to Mandatory course attendees will be developed solely by the Board or its designee.~~

- (c) Providers shall submit all elective courses to the Board for approval ~~in a manner prescribed by the Board.~~ pursuant to Rule .0302 of this Subchapter.
- (d) Providers shall obtain approval from the Board before making any changes in the content of a prior approved elective course. Requests for approval of changes shall be made in writing.

History Note: Authority G.S 87-10.2(b);
Temporary Adoption Eff. January 2, 2020.

21 NCAC 12B .0302 APPROVAL AND RENEWAL OF ELECTIVE COURSE

(a) Prior to obtaining the Board's written approval of a continuing education elective course, providers shall not offer, advertise, or otherwise represent that any continuing education elective course is, or may be, approved for continuing education credit in North Carolina.

(b) A provider seeking initial approval of a proposed elective course shall complete an application on a form available on the Board's website that requires the applicant to set forth the following:

- (1) title of the proposed elective course;
- (2) provider's legal name, address, and telephone number;
- (3) continuing education coordinator's name;
- (4) provider's ID number, if previously approved;
- (5) credit hours awarded for completing the course;
- (6) subject matter of the course;
- (7) identity of the course content owner;
- (8) written permission of the course content owner, if other than the applicant;
- (9) identity of prospective instructors; and
- (10) signature of the provider or its legal designee.

(c) The application for initial approval shall be accompanied by a copy of the elective course guide, which shall include course objectives, learning objectives for each topic, a timed outline, instructional methods and aids to be employed, and all materials that will be provided to students.

(d) A provider seeking approval to offer an already approved elective course shall complete an application on a form available on the Board's website that requires the applicant to submit the following:

- (1) title of the elective course;
- (2) applicant's legal name, address, and telephone number;
- (3) applicant's continuing education coordinator's name;
- (4) applicant's continuing education provider code, if previously approved;
- (5) identity of the course content owner;
- (6) written permission of the course content owner, if other than the applicant;
- (7) identity of prospective instructors;
- (8) signature of the provider or its legal designee; and

- (9) certification that there have been no substantial changes to the course materials since the course was last approved.

(g) All applications for approval and renewal of elective courses shall be accompanied by fees as required by 21 NCAC 12A .0304

(h) Board approval of all continuing education elective courses shall expire on December 1 of each year.

(i) In order to obtain approval for an expired continuing education elective, a course provider shall submit an application for initial approval.

*History Note: Authority G.S. 87-10.2(b);
Temporary Adoption Eff. January 2, 2020.*

21 NCAC 12B .0303 MANDATORY COURSE

(a) The Board shall annually develop a Mandatory course as described in G.S. 87-10.2(b) and shall provide instructional materials for use by providers.

(b) Only approved continuing education providers shall offer the Mandatory course to students. Only approved instructors pursuant to Rule .0401 of this Subchapter shall instruct the Mandatory course.

(c) Providers shall obtain written approval from the Board prior to offering, advertising, or otherwise representing that any Update course is being offered for continuing education credit in North Carolina.

(d) A provider seeking approval to offer the Mandatory course shall submit an application form available on the Board's website that shall require the following:

- (1) provider's legal name, address, telephone number, and website;
- (2) continuing education coordinator's name;
- (3) if applicable, provider's ID number assigned by the Board;
- (4) if applicable, name and instructor ID number of prospective instructors; and
- (5) signature of the applicant or its legal designee.

(e) A provider may obtain approval from the Board to offer the Mandatory course by requesting it on the application or renewal of the provider's approval.

(f) Providers shall use the Board developed course materials to conduct Mandatory courses. Providers shall provide a copy of the course materials to each student taking the Mandatory course. All supplemental materials distributed to Mandatory course attendees shall be developed solely by the Board or its designee. Such materials shall be distributed to each student taking the Mandatory course.

(g) Board approval to offer Mandatory courses shall expire annually on November 30 following issuance of approval. Providers shall apply for renewal of approval to offer Mandatory courses along with the renewal of provider approval required in Rule .0202 of this Subchapter.

(h) All Mandatory course materials developed by the Board are the sole property of the Board and are subject to the protection of federal copyright laws. Violation of the Board's copyright with regard to these materials shall be grounds for disciplinary action or other action as permissible by law.

History Note: Authority G.S. 87-10.2(c);

Temporary Adoption Eff. January 2, 2020.

SECTION .0400 – INSTRUCTORS

21 NCAC 12B .0401 APPLICATION AND CRITERIA FOR INITIAL INSTRUCTOR APPROVAL

(a) A provider seeking initial instructor approval shall submit an application on a form available on the Board's website that shall require requires the instructor applicant to indicate the course(s) for which he or she is seeking approval and set forth the instructor applicant's:

- (1) legal name, address, email address, and telephone number;
- (2) general contractor's license number, qualifier ID number, and instructor ID number, if any, assigned by the Board;
- (3) education background, including specific general contracting education;
- (4) experience in the general contracting industry;
- (5) professional licenses or certifications held by the prospective instructor;
- (6) teaching experience, if any; and
- (7) signature of the prospective instructor.

(b) Prior to teaching the Mandatory course, an instructor shall attend the Board's Mandatory Instructor Seminar for the designated license year.

(c) Approved instructors who are also qualifiers shall receive one hour of CE credit for each one hour of class instruction. Course providers shall be responsible for payment of all CE fees for instructors seeking CE credit.

*History Note: Authority G.S. 87-10.2(b) and (d);
Temporary Adoption Eff. January 2, 2020.*

21 NCAC 12B .0402 RENEWAL AND EXPIRATION OF INSTRUCTOR APPROVAL

(a) Board approval of instructors shall expire annually on December 1 following issuance of Board approval.

(b) A provider shall file an application for a previously approved instructor renewal no less than 30 days immediately preceding expiration of approval. The instructor renewal application shall include the instructor's:

- (1) legal name, address, email address, and telephone number;
- (2) general contractor's license number and qualifier ID number, if applicable, and instructor ID number assigned by the Board;
- (3) course name(s) and course number(s) for which the provider is seeking approval as an instructor; and
- (4) signature.

(c) In order to reinstate an instructor approval that has been expired for less than six months, the former instructor shall meet the requirements set forth in Paragraph (b) of this Rule.

(d) If an instructor approval has been expired for more than six months, the provider shall file an application for initial instructor approval pursuant to Rule .0401 of this Subchapter.

History Note: Authority G.S. 87-10.2(d);

Temporary Adoption Eff. January 2, 2020.

21 NCAC 12B .0403 DENIAL OR WITHDRAWAL OF INSTRUCTOR APPROVAL

The Board may deny or withdraw approval of any instructor applicant or approved instructor upon finding that the instructor or instructor applicant:

- (1) has failed to meet the criteria for approval described in Rule .0401 of this Subchapter or the criteria for renewal of approval described in Rule .0402 of this Subchapter at the time of application or at any time during an approval period;
- (2) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval or any report that is

required to be submitted to the Board; in accordance with this Subchapter;

- (3) has failed to submit to the Board any report, course examination, or video recording required by ~~these Rules~~; this Subchapter;
- (4) has failed to demonstrate the ability to teach any elective or Mandatory course in a manner consistent with the course materials;
- (5) engaged in any other improper, fraudulent, or dishonest conduct as determined by the Board; or
- (6) failed to comply with any other provisions of this Chapter.

*History Note: Authority G.S. 87-10.2(d);
Temporary Adoption Eff. January 2, 2020.*

This Section contains information for the meeting of the Rules Review Commission December 19, 2019 and January 16, 2020 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 (Chair)
Robert A. Bryan, Jr.
Margaret Currin
Brian P. LiVecchi
W. Tommy Tucker, Sr.

Appointed by House

Jeanette Doran (1st Vice Chair)
Andrew P. Atkins
Anna Baird Choi (2nd Vice Chair)
Paul Powell
Garth Dunklin

COMMISSION COUNSEL

Amber Cronk May (919) 431-3074
Amanda Reeder (919) 431-3079
Ashley Snyder (919) 431-3081

RULES REVIEW COMMISSION MEETING DATES

January 16, 2020 February 20, 2020
March 19, 2020 April 16, 2020

**RULES REVIEW COMMISSION MEETING
MINUTES****December 19, 2019**

The Rules Review Commission met on Thursday, December 19, 2019, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were Andrew Atkins, Anna Baird Choi, Jeanette Doran, Garth Dunklin, Jeff Hyde, Brian LiVecchi, Paul Powell, and Tommy Tucker.

Staff members present were Commission Counsel Amber Cronk May, Ashley Snyder, and Amanda Reeder; and Julie Brincefield, Alex Burgos, and Dana McGhee.

The meeting was called to order at 9:01 a.m. with Chairman Hyde presiding.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts of interest.

APPROVAL OF MINUTES

Chairman Hyde asked for any discussion, comments, or corrections concerning the minutes of the November 21, 2019 meeting. There were none and the minutes were approved as distributed.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow up matters Tab C for Alcoholic Beverage Control Commission and Tab D for Environmental Management Commission.

FOLLOW UP MATTERS**Board of Elections**

The agency is addressing the objection for 08 NCAC 10B .0103. No action was required by the Commission.

Commission for the Blind

The agency is addressing the objections for 10A NCAC 63C .0203, .0204, .0403, and .0601. No action was required by the Commission.

Alcoholic Beverage Control Commission

14B NCAC 15A .1406 was approved with Chairman Hyde and Commissioner Tucker voting against.

Walker Reagan, the rulemaking coordinator with the agency, addressed the Commission.

Environmental Management Commission

The Commission unanimously waived Rule 26 NCAC 05 .0103 and allowed the speaker to submit untimely written comments opposing 15A NCAC 02B .0240 (to be recodified as 15A NCAC 02B .0703).

15A NCAC 02B .0229, .0232, .0234, .0235, .0236, .0237, .0238, .0239, .0255, .0256, .0257, .0258, .0701, and .0730 – All rules were unanimously approved with the following exception: The Commission objected to 15A NCAC 02B .0240 for lack of statutory authority.

Forrest Westall, the Executive Director with the Upper Neuse River Basin Association, addressed the Commission.

Phillip Reynolds, with the Attorney General's Office and representing the agency, addressed the Commission.

Jim Hawhee, with the agency, addressed the Commission.

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, and .1206 - The agency is addressing the objections from the July meeting. No action was required by the Commission.

State Board of Opticians

21 NCAC 40 .0321 - The agency is addressing the objection and request for technical changes from the September meeting. No action was required by the Commission.

Prior to the review of the rules from the State Board of Opticians, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm represents the Board and assists the Board with rulemaking.

Building Code Council

Residential Code, N1106.2 (R406.2); Energy Conservation Code, R202; and Energy Conservation Code R406.2. – At the November meeting, the Commission voted pursuant to G.S. 150B-21.9 to ask the Office of State Budget and Management to determine if the above-referenced rules have a substantial economic impact and therefore require a fiscal note. A response to this request pursuant to G.S. 150B-21.9 will assist the Commission in determining whether the agency adopted the rules in accordance with the Administrative Procedure Act. OSBM has not formally responded to this request. No action was required by the Commission.

These rules will remain under the Commission's review until after review by OSBM and subsequent action by the agency pursuant to G.S. 150B-21.12.

LOG OF FILINGS (PERMANENT RULES)**Medical Care Commission**

All rules were unanimously approved.

Commission for Public Health

All rules were unanimously approved.

Private Protective Services Board

The Commission extended the period of review for 14B NCAC 16 .0114, .0201, .0202, .0203, .0205, .0502, .0701, .0702, .0705, .0706, .0801, .0802, .0806, .0902, .0903, .0904, .0909, .0910, .0911, .0912, .1301, .1302, .1306, .1401, .1402, and .1406 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address technical changes and submit the rewritten rules at a later meeting.

Board of Certified Public Accountant Examiners

All rules were unanimously approved.

Board of Chiropractic Examiners

All rules were unanimously approved.

Prior to the review of the rules from the Board of Chiropractic Examiners, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm represents the Board and assists the Board with rulemaking.

Board of Occupational Therapy

All rules were unanimously approved.

LOG OF FILINGS (TEMPORARY RULES)

State Board of Elections

08 NCAC 17 .0109 was unanimously approved.

Licensing Board for General Contractors

21 NCAC 12A .0304, .0503; 12B .0101, .0102, .0103, .0104, .0105, .0201, .0202, .0203, .0204, .0205, .0206, .0301, .0302, .0303, .0401, .0402, and .0403 were unanimously approved.

Prior to the review of the rules from the Licensing Board for General Contractors, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm represents the Board and assists the Board with rulemaking.

EXISTING RULES REVIEW

DHHS/Division of Aging & Adult Services

04 NCAC 19N,O,P,Q – The Commission unanimously approved the report as submitted by the agency.

COMMISSION BUSINESS

The Commission voted to accept the 2020 RRC meeting dates.

The meeting adjourned at 11:31 a.m.

The next regularly scheduled meeting of the Commission is Thursday, January 16, 2020 at 9:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:

Jeff Hyde, Chair

December 19, 2019

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Jennifer Everett	DEQ
Nadine Pfeiffer	DHHS - DHSR
John Huisman	DEQ
Virginia Niehaus	CPH - DPH
Frank W. esser	NCLBGC
Kirsten Wlondis	CPH - DBIT
Misty PM	DHS - JAS
Kim Gamford	DHHS PRAS
Jim Hawke	NCDER
MagAnne Burghart	NC DHHS - DPH
Forrest Westfall	Upper Neuse River Assoc.
Hayward Phthisie	Lower Neuse Basin Assoc.
WALKER, REAGAN to Storey Cole	ABC Comm
Carrie Hollis	OSBM
Kelly Tamow	Board of Elections
John Bankley	DOJ for CPH, DPH
Elizabeth Kirk	NCPOT
Julie Ventaloro	DEQ
Don McMahon	City of Raleigh
DAVID NAWK	NC CPH BOARD
Don O'Toole	City of Durham

RULES REVIEW COMMISSION

December 19, 2019

Rules Review Commission
Meeting
Please **Print** Legibly

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LIST OF APPROVED TEMPORARY RULES
December 19, 2019 Meeting

ELECTIONS, STATE BOARD OF

Photo Identification for Absentee Ballots 08 NCAC 17 .0109

GENERAL CONTRACTORS, LICENSING BOARD FOR

<u>Fees</u>	21 NCAC 12A .0304
<u>Renewal of License</u>	21 NCAC 12A .0503
<u>General</u>	21 NCAC 12B .0101
<u>Continuing Education Credit</u>	21 NCAC 12B .0102
<u>Continuing Education Records; Audit</u>	21 NCAC 12B .0103
<u>Extension of Time</u>	21 NCAC 12B .0104
<u>Inactive Status</u>	21 NCAC 12B .0105
<u>Application for Initial Approval of Continuing Education ...</u>	21 NCAC 12B .0201
<u>Expiration and Renewal of Provider Approval</u>	21 NCAC 12B .0202
<u>Denial or Withdrawal of Provider Approval</u>	21 NCAC 12B .0203
<u>Attendance; Roster Reports and Certificates</u>	21 NCAC 12B .0204
<u>Course Scheduling</u>	21 NCAC 12B .0205
<u>Records and Board Review</u>	21 NCAC 12B .0206
<u>Course Requirements</u>	21 NCAC 12B .0301
<u>Approval and Renewal of Elective Course</u>	21 NCAC 12B .0302
<u>Mandatory Course</u>	21 NCAC 12B .0303
<u>Application Criteria for Initial Instructor Approval</u>	21 NCAC 12B .0401
<u>Renewal and Expiration of Instructor Approval</u>	21 NCAC 12B .0402
<u>Denial or Withdrawal of Instructor Approval</u>	21 NCAC 12B .0403

RRC Determination
Periodic Rule Review
December 19, 2019

Necessary with substantive public interest

HHS - Aging and Adult Services,	04 NCAC 19O .0302	04 NCAC 19O .0605
Division of	04 NCAC 19O .0303	04 NCAC 19O .0701
04 NCAC 19O .0101	04 NCAC 19O .0304	04 NCAC 19O .0702
04 NCAC 19O .0102	04 NCAC 19O .0401	04 NCAC 19O .0703
04 NCAC 19O .0103	04 NCAC 19O .0402	04 NCAC 19O .0704
04 NCAC 19O .0104	04 NCAC 19O .0403	
04 NCAC 19O .0201	04 NCAC 19O .0601	
04 NCAC 19O .0202	04 NCAC 19O .0602	
04 NCAC 19O .0301	04 NCAC 19O .0604	

RRC Determination
Periodic Rule Review
December 19, 2019
Unnecessary

HHS - Aging and Adult Services,	04 NCAC 19N .0102	04 NCAC 19N .0201
Division of	04 NCAC 19N .0103	04 NCAC 19N .0202
04 NCAC 19N .0101	04 NCAC 19N .0104	04 NCAC 19N .0301

RULES REVIEW COMMISSION

<u>04 NCAC 19N .0302</u>	<u>04 NCAC 19P .0104</u>	<u>04 NCAC 19Q .0104</u>
<u>04 NCAC 19N .0303</u>	<u>04 NCAC 19P .0201</u>	<u>04 NCAC 19Q .0201</u>
<u>04 NCAC 19N .0401</u>	<u>04 NCAC 19P .0202</u>	<u>04 NCAC 19Q .0202</u>
<u>04 NCAC 19N .0402</u>	<u>04 NCAC 19P .0301</u>	<u>04 NCAC 19Q .0301</u>
<u>04 NCAC 19N .0501</u>	<u>04 NCAC 19P .0302</u>	<u>04 NCAC 19Q .0302</u>
<u>04 NCAC 19N .0502</u>	<u>04 NCAC 19P .0303</u>	<u>04 NCAC 19Q .0303</u>
<u>04 NCAC 19N .0503</u>	<u>04 NCAC 19P .0402</u>	<u>04 NCAC 19Q .0304</u>
<u>04 NCAC 19N .0504</u>	<u>04 NCAC 19P .0403</u>	<u>04 NCAC 19Q .0401</u>
<u>04 NCAC 19N .0505</u>	<u>04 NCAC 19P .0501</u>	<u>04 NCAC 19Q .0402</u>
<u>04 NCAC 19N .0601</u>	<u>04 NCAC 19P .0502</u>	<u>04 NCAC 19Q .0403</u>
<u>04 NCAC 19N .0602</u>	<u>04 NCAC 19P .0503</u>	<u>04 NCAC 19Q .0601</u>
<u>04 NCAC 19N .0603</u>	<u>04 NCAC 19P .0504</u>	<u>04 NCAC 19Q .0602</u>
<u>04 NCAC 19N .0604</u>	<u>04 NCAC 19P .0505</u>	<u>04 NCAC 19Q .0603</u>
<u>04 NCAC 19Q .0501</u>	<u>04 NCAC 19P .0601</u>	<u>04 NCAC 19Q .0604</u>
<u>04 NCAC 19Q .0502</u>	<u>04 NCAC 19P .0602</u>	<u>04 NCAC 19Q .0605</u>
<u>04 NCAC 19Q .0503</u>	<u>04 NCAC 19P .0603</u>	<u>04 NCAC 19Q .0701</u>
<u>04 NCAC 19Q .0603</u>	<u>04 NCAC 19P .0604</u>	<u>04 NCAC 19Q .0702</u>
<u>04 NCAC 19P .0101</u>	<u>04 NCAC 19Q .0101</u>	<u>04 NCAC 19Q .0703</u>
<u>04 NCAC 19P .0102</u>	<u>04 NCAC 19Q .0102</u>	<u>04 NCAC 19Q .0704</u>
<u>04 NCAC 19P .0103</u>	<u>04 NCAC 19Q .0103</u>	

AGENDA
RULES REVIEW COMMISSION
THURSDAY, JANUARY 16, 2020 9:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Board of Elections - 08 NCAC 10B .0103 (May)
 - B. Commission for the Blind - 10A NCAC 63C .0203, .0204, .0403, .0601 (Reeder)
 - C. Private Protective Services Board - 14B NCAC 16 .0114, .0201, .0202, .0203, .0205, .0502, .0701, .0702, .0705, .0706, .0801, .0802, .0806, .0902, .0903, .0904, .0909, .0910, .0911, .0912, .1301, .1302, .1306, .1401, .1402, .1406 (Reeder)
 - D. Environmental Management Commission - 15A NCAC 02B .0240 (Reeder)
 - E. 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)
 - F. State Board of Opticians – 21 NCAC 40 .0321 (Snyder)
 - G. Building Code Council - Residential Code, N1106.2 (R406.2); Energy Conservation Code, R202; Energy Conservation Code R406.2 (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between November 22, 2019 through December 20, 2019
 - Department of Administration (May)
 - Department of Natural and Cultural Resources (Reeder)
 - Criminal Justice Education and Training Standards Commission (Snyder)
 - Alcoholic Beverage Control Commission (Snyder)
 - Sedimentation Control Commission (Reeder)
 - Coastal Resources Commission (Snyder)
 - Wildlife Resources Commission (Snyder)
 - Board of Dental Examiners (Snyder)
 - Board of Examiners of Electrical Contractors (Reeder)

- Medical Board/Perfusion Advisory Committee (Snyder)
 - Psychology Board (May)
 - Social Work Certification and Licensure Board (Reeder)
 - State Human Resources Commission (Reeder)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
H. DHHS - Division of Health Service Regulation - 10A NCAC 14C .2203 (Snyder)
- VI. Review of the 2020 State Medical Facilities Plan (Snyder)
- VII. Existing Rules Review
- Readoptions
 - 1. 15A NCAC 18A – Marine Fisheries Commission (May)
- VIII. Commission Business
- Next meeting: Thursday, February 20, 2020
-

Commission Review
Log of Temporary Rule Filings
January 07, 2020 through January 16, 2020

HHS - HEALTH SERVICE REGULATION, DIVISION OF

The rules in Chapter 14 concern services provided by the Division of Health Service Regulation.

The rules in Subchapter 14C are Certificate of Need regulations including general provisions (.0100); applications and review process (.0200); exemptions (.0300); appeal process (.0400); enforcement and sanctions (.0500); and criteria and standards for nursing facility or adult care home services (.1100), intensive care services (.1200), pediatric intensive care services (.1300), neonatal services (.1400), hospices, hospice inpatient facilities, and hospice residential care facilities (.1500), cardiac catheterization equipment and cardiac angioplasty equipment (.1600), open heart surgery services and heart-lung bypass machines (.1700), diagnostic centers (.1800), radiation therapy equipment (.1900), home health services (.2000), surgical services and operating rooms (.2100), end stage renal disease services (.2200), computed tomography equipment (.2300), immediate care facility/mentally retarded (ICF/MR) (.2400), substance abuse/chemical dependency treatment beds (.2500), psychiatric beds (.2600), magnetic resonance imaging scanner (.2700), rehabilitation services (.2800), bone marrow transplantation services (.2900), solid organ transplantation services (.3000), major medical equipment (.3100), lithotripter equipment (.3200), air ambulance (.3300), burn intensive care services (.3400), oncology treatment centers (.3500), gamma knife (.3600), positron emission tomography scanner (.3700), acute care beds (.3800), gastrointestinal endoscopy procedure rooms in licensed health service facilities (.3900), and hospice inpatient facilities and hospice residential care facilities (.4000).

Performance Standards
 Amend*

10A NCAC 14C .2203

Commission Review
Log of Permanent Rule Filings
November 22, 2019 through December 20, 2019

ADMINISTRATION, DEPARTMENT OF

The rules in Subchapter 35A concern the state employees combined campaign including process and organization (.0100); application process and schedule (.0200); and general provisions (.0300).

Definitions

01 NCAC 35A .0101

Repeal*

Purpose

01 NCAC 35A .0102

Readopt/Repeal*

Organization of the Campaign

01 NCAC 35A .0103

Readopt/Repeal*					
<u>Applications</u>	01	NCAC	35A	.0201	
Readopt/Repeal*					
<u>Content of Applications</u>	01	NCAC	35A	.0202	
Readopt/Repeal*					
<u>Review and Schedule</u>	01	NCAC	35A	.0203	
Readopt/Repeal*					
<u>Response</u>	01	NCAC	35A	.0204	
Readopt/Repeal*					
<u>Agreements</u>	01	NCAC	35A	.0205	
Readopt/Repeal*					
<u>Other Solicitation Prohibited</u>	01	NCAC	35A	.0301	
Readopt/Repeal*					
<u>Coercive Activities Prohibited</u>	01	NCAC	35A	.0302	
Readopt/Repeal*					
<u>Methods of Giving and Terms of Contribution</u>	01	NCAC	35A	.0304	
Readopt/Repeal*					
<u>Campaign Literature</u>	01	NCAC	35A	.0305	
Repeal*					
<u>Designation Campaign</u>	01	NCAC	35A	.0306	
Readopt/Repeal*					
<u>Distribution of Undesignated Funds</u>	01	NCAC	35A	.0307	
Readopt/Repeal*					
<u>Campaign Operation</u>	01	NCAC	35A	.0309	
Repeal*					

The rules in Subchapter 35B concern the state employees combined campaign including organization (.0100); application process and schedule (.0200); and general provisions (.0300).

<u>Definitions</u>	01	NCAC	35B	.0101	
Adopt*					
<u>Purpose and Organization</u>	01	NCAC	35B	.0102	
Adopt*					
<u>Statewide Campaign Chair</u>	01	NCAC	35B	.0103	
Adopt*					
<u>SECC Advisory Committee</u>	01	NCAC	35B	.0104	
Adopt*					
<u>Statewide Campaign Organization</u>	01	NCAC	35B	.0105	
Adopt*					
<u>Campaign Solicitation Organization</u>	01	NCAC	35B	.0106	
Adopt*					
<u>Contract</u>	01	NCAC	35B	.0107	
Adopt*					
<u>Campaign Literature</u>	01	NCAC	35B	.0108	
Adopt*					
<u>Applications</u>	01	NCAC	35B	.0201	
Adopt*					
<u>Content of Applications</u>	01	NCAC	35B	.0202	
Adopt*					
<u>Criteria for Applicants</u>	01	NCAC	35B	.0203	
Adopt*					
<u>Application Review Process</u>	01	NCAC	35B	.0204	
Adopt*					

<u>Operating Requirements</u> Adopt*	01	NCAC	35B	.0301
<u>Authorized Solicitation Methods</u> Adopt*	01	NCAC	35B	.0302
<u>Revocation of Eligibility</u> Adopt*	01	NCAC	35B	.0303
<u>Terms of Contributions/Designated Campaign</u> Adopt*	01	NCAC	35B	.0304
<u>Distribution of Undesignated Funds</u> Adopt*	01	NCAC	35B	.0305

NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF

The rules in Chapter 13 concern parks and recreation areas.

The rules in Subchapter 13F concern the natural and scenic rivers program including criteria for classification and designation (.0200); and criteria for management (.0300).

<u>Criteria for Designation</u> Readopt without Changes*	07	NCAC	13F	.0202
<u>Management of Natural River Areas</u> Readopt without Changes*	07	NCAC	13F	.0303
<u>Management of Scenic River Areas</u> Readopt without Changes*	07	NCAC	13F	.0304

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs).

The rules in Subchapter 9B cover minimum standards for: employment (.0100); schools and training programs (.0200); criminal justice instructors (.0300); completion of training (.0400); school directors (.0500); and certification of post-secondary criminal justice education programs (.0600).

<u>General Instructor Certification</u> Amend*	12	NCAC	09B	.0302
<u>Certification of Diversion Investigator and Supervisors</u> Adopt*	12	NCAC	09B	.0314

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. The rules in Subchapter 9E relate to the law enforcement officers' in-service training program.

<u>Minimum Training Specifications: Annual In-Service Training</u> Amend**	12	NCAC	09E	.0105
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ALCOHOLIC BEVERAGE CONTROL COMMISSION

The rules in Chapter 15 are from the Alcoholic Beverage Control Commission.

The rules in Subchapter 15B concern retail beer, wine, mixed beverages, brownbagging, advertising, and special permits. The rules include definitions and permit application procedures (.0100); general rules affecting retailers and brownbagging permittees (.0200); malt beverages and the wine retailer/wholesaler relationship (.0300); additional requirements for brownbagging permittees (.0400); additional requirements for mixed beverages permittees (.0500); special requirements for convention centers, community theatres, sports clubs, and nonprofit and political organizations

(.0600); special occasions permits (.0700); culinary permits (.0800); wine and beer tastings (.0900); advertising (.1000); and effect of administrative action, fines, and offers in compromise (.1100).

<u>General Prohibitions</u>	14B	NCAC	15B	.1004
Amend*				

SEDIMENTATION CONTROL COMMISSION

The rules in Subchapter 4A concern the organization of the sedimentation control commission.

<u>Offices of the Sedimentation Control Commission</u>	15A	NCAC	04A	.0101
Amend*				

<u>Definitions</u>	15A	NCAC	04A	.0105
Readopt with Changes*				

The rules in Subchapter 4B concern erosion and sediment control.

<u>Protection of Property</u>	15A	NCAC	04B	.0105
Readopt with Changes*				

<u>Basic Erosion and Sedimentation Control Plan Objectives</u>	15A	NCAC	04B	.0106
Readopt with Changes*				

<u>Mandatory Standards for Land-Disturbing Activity</u>	15A	NCAC	04B	.0107
Readopt with Changes*				

<u>Design and Performance Standard</u>	15A	NCAC	04B	.0108
Readopt with Changes*				

<u>Storm Water Outlet Protection</u>	15A	NCAC	04B	.0109
Readopt with Changes*				

<u>Borrow and Waste Areas</u>	15A	NCAC	04B	.0110
Readopt with Changes*				

<u>Access and Haul Roads</u>	15A	NCAC	04B	.0111
Readopt without Changes*				

<u>Operations in Lakes or Natural Watercourses</u>	15A	NCAC	04B	.0112
Readopt with Changes*				

<u>Responsibility for Maintenance</u>	15A	NCAC	04B	.0113
Readopt without Changes*				

<u>Additional Measures</u>	15A	NCAC	04B	.0115
Readopt with Changes*				

<u>Approval of Plans</u>	15A	NCAC	04B	.0118
Readopt with Changes*				

<u>Inspections and Investigations</u>	15A	NCAC	04B	.0120
Readopt with Changes*				

<u>Design Standards in Sensitive Watersheds</u>	15A	NCAC	04B	.0124
Readopt with Changes*				

<u>Buffer Zone Requirements</u>	15A	NCAC	04B	.0125
Readopt with Changes*				

<u>Application Fee</u>	15A	NCAC	04B	.0126
Readopt with Changes*				

<u>Plan Approval Certificate</u>	15A	NCAC	04B	.0127
Readopt with Changes*				

<u>Erosion Control Plan Expiration Date</u>	15A	NCAC	04B	.0129
Readopt with Changes*				

<u>Emergencies</u>	15A	NCAC	04B	.0130
Readopt with Changes*				

<u>Self-Inspections</u>	15A	NCAC	04B	.0131
Readopt with Changes*				
<u>Design Standards for the Upper Neuse River Basin</u>	15A	NCAC	04B	.0132
Readopt with Changes*				

The rules in Subchapter 4C concern sedimentation control civil penalties.

<u>Who May Assess</u>	15A	NCAC	04C	.0103
Readopt with Changes*				
<u>Criteria</u>	15A	NCAC	04C	.0106
Readopt with Changes*				
<u>Procedures: Notices</u>	15A	NCAC	04C	.0107
Readopt with Changes*				
<u>Requests for Administrative Hearing</u>	15A	NCAC	04C	.0108
Readopt/Repeal*				
<u>Administrative Hearing</u>	15A	NCAC	04C	.0110
Repeal*				
<u>Further Remedies</u>	15A	NCAC	04C	.0111
Repeal*				

The rules in Subchapter 4D concern local ordinances.

<u>Model Ordinance</u>	15A	NCAC	04D	.0102
Readopt/Repeal*				

The rules in Subchapter 4E concern rulemaking procedures including general provisions (.0100); petitions for rulemaking (.0200); rulemaking hearings (.0400); and declaratory rulings (.0500).

<u>General Purpose</u>	15A	NCAC	04E	.0101
Repeal*				
<u>Definitions</u>	15A	NCAC	04E	.0102
Repeal*				
<u>Copies of Rules</u>	15A	NCAC	04E	.0104
Amend*				
<u>Form and Content of Petition</u>	15A	NCAC	04E	.0201
Amend*				
<u>Disposition of Petitions</u>	15A	NCAC	04E	.0203
Repeal*				
<u>Written Submissions</u>	15A	NCAC	04E	.0403
Repeal*				
<u>Statement for Reasons of Decisions</u>	15A	NCAC	04E	.0405
Repeal*				
<u>Record of Proceedings</u>	15A	NCAC	04E	.0406
Repeal*				
<u>Declaratory Rules: Generally</u>	15A	NCAC	04E	.0501
Amend*				
<u>Procedure for Requesting Declaratory Rulings</u>	15A	NCAC	04E	.0502
Amend*				
<u>Disposition of Request</u>	15A	NCAC	04E	.0503
Amend*				
<u>Record of Decision</u>	15A	NCAC	04E	.0504
Repeal*				

COASTAL RESOURCES COMMISSION

The rules in Subchapter 7H are the state guidelines for areas of environmental concern (AECs) including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); general permit to construct boat ramps along estuarine and public trust shorelines and into estuarine and public trust waters (.1300); groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); construction of sheetpile sill for shoreline protection in estuarine and public trust waters (.2100); construction of freestanding moorings in established waters and public trust areas (.2200); replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); placement of riprap for wetland protection in estuarine and public trust waters (.2400); replacement of structures; the reconstruction of primary or frontal dune systems; and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms (.2500); construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

<u>AECs Within Ocean Hazard Areas</u>	15A	NCAC	07H	.0304
Amend*				
<u>General Identification and Description of Landforms</u>	15A	NCAC	07H	.0305
Amend*				
<u>Use Standards for Ocean Hazard Areas: Exceptions</u>	15A	NCAC	07H	.0309
Amend*				
<u>Use Standards for State Ports Inlet Management Areas</u>	15A	NCAC	07H	.0313
Adopt*				
<u>Purpose</u>	15A	NCAC	07H	.1901
Amend*				
<u>Approval Procedures</u>	15A	NCAC	07H	.1902
Amend*				
<u>General Conditions</u>	15A	NCAC	07H	.1904
Amend*				
<u>Specific Conditions</u>	15A	NCAC	07H	.1905
Amend*				

WILDLIFE RESOURCES COMMISSION

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

<u>Carolina Beach</u>	15A	NCAC	10F	.0306
Amend*				
<u>Northampton and Warren Counties</u>	15A	NCAC	10F	.0336
Amend*				

The rules in Subchapter 10H concern activities regulated by the Commission including controlled hunting preserves for domestically raised game birds (.0100), holding wildlife in captivity (.0300), commercial trout ponds (.0400), fish

propagation (.0700), falconry (.0800), game bird propagators (.0900), taxidermy (.1000), furbearer propagation (.1100), controlled fox hunting preserves (.1200), and reptiles and amphibians (.1300).

<u>General Requirements</u>	15A	NCAC	10H	.0101
Readopt with Changes*				
<u>Establishment and Operation</u>	15A	NCAC	10H	.0102
Amend*				
<u>Labeling of Harvested Birds</u>	15A	NCAC	10H	.0103
Amend*				
<u>Quality of Birds Released</u>	15A	NCAC	10H	.0104
Amend*				
<u>Records and Reporting Requirements</u>	15A	NCAC	10H	.0105
Amend*				
<u>Hunting License Required</u>	15A	NCAC	10H	.0106
Amend*				
<u>Revocation of License to Operate</u>	15A	NCAC	10H	.0107
Amend*				
<u>Feeding of Stocked Birds</u>	15A	NCAC	10H	.0108
Amend*				
<u>Quail Call-Pen Traps</u>	15A	NCAC	10H	.0109
Amend*				
<u>Supplement Feeding</u>	15A	NCAC	10H	.0110
Repeal*				

DENTAL EXAMINERS, BOARD OF

The rules in Subchapter 16W concern public health hygienists.

<u>Direction Defined</u>	21	NCAC	16W	.0101
Amend*				
<u>Dental Access Shortage Areas</u>	21	NCAC	16W	.0104
Adopt*				

ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS OF

The rules in Chapter 18B are from the Board of Electrical Contractors including general provisions (.0100); examinations and qualifications (.0200); terms and definitions applicable to licensing (.0300); licensing requirements (.0400); reciprocal licensing agreements with other states (.0700); special restricted licenses (.0800); violations and contested case hearings (.0900); forms, certificates, and publications of the board (.1000); and continuing education courses and requirements (.1100).

<u>Apprentice Training</u>	21	NCAC	18B	.0212
Adopt*				
<u>Electrical Installation: Project: Project Value-Limitation</u>	21	NCAC	18B	.0303
Amend*				
<u>Annual License Fees</u>	21	NCAC	18B	.0404
Amend*				
<u>School, Hospital and Nonprofit Electrical Contractors and...</u>	21	NCAC	18B	.0408
Adopt*				
<u>Applicants Convicted of Crimes</u>	21	NCAC	18B	.0901
Repeal*				

MEDICAL BOARD/PERFUSION ADVISORY COMMITTEE

The rules in Subchapter 32V are rules covering licensure of perfusionists and the practice of perfusion. Perfusion primarily concerns operating cardiopulmonary bypass systems during cardiac surgery cases.

<u>Qualifications for License</u> Amend*	21	NCAC	32V	.0103
<u>Practice During a Disaster</u> Amend*	21	NCAC	32V	.0111

PSYCHOLOGY BOARD

The rules in Chapter 54 are from the Board of Psychology and cover general provisions (.1600); application for licensure (.1700); education (.1800); examination (.1900); supervision (.2000); renewal (.2100); professional corporations (.2200); administrative hearing procedures (.2300); rulemaking procedures (.2400); rulemaking hearings (.2500); declaratory rulings, (.2600); health services provider certification (.2700); and ancillary services (.2800).

<u>Board Address and Forms</u> Readopt with Changes*	21	NCAC	54	.1602
<u>Fees</u> Readopt with Changes*	21	NCAC	54	.1605
<u>Waiver of Compliance with Rules</u> Readopt without Changes*	21	NCAC	54	.1606
<u>Delegation of Authority</u> Readopt without Changes*	21	NCAC	54	.1607
<u>Ethical Violations</u> Readopt without Changes*	21	NCAC	54	.1608
<u>Termination of Practice</u> Readopt without Changes*	21	NCAC	54	.1609
<u>Practice By Psychologists who are not Residents of North ...</u> Readopt with Changes*	21	NCAC	54	.1610
<u>Practice by Postdoctoral Trainees</u> Readopt with Changes*	21	NCAC	54	.1611
<u>Criminal History Record Check</u> Readopt with Changes*	21	NCAC	54	.1612
<u>Information Required</u> Readopt with Changes*	21	NCAC	54	.1701
<u>Foreign Degree Application Policy</u> Readopt with Changes*	21	NCAC	54	.1702
<u>Temporary Licenses</u> Readopt with Changes*	21	NCAC	54	.1703
<u>Issuance of License</u> Readopt with Changes*	21	NCAC	54	.1705
<u>Reapplication</u> Readopt with Changes*	21	NCAC	54	.1706
<u>Senior Psychologist</u> Readopt with Changes*	21	NCAC	54	.1707
<u>Psychological Associate</u> Readopt with Changes*	21	NCAC	54	.1802
<u>Licensed Psychologist</u> Readopt with Changes*	21	NCAC	54	.1803
<u>Examinations</u> Readopt with Changes*	21	NCAC	54	.1901
<u>Retaking the National Examination</u> Readopt with Changes*	21	NCAC	54	.1903

<u>Failure to Appear for the National Examination</u> Readopt with Changes*	21	NCAC	54	.1904
<u>Supervisor</u> Readopt with Changes*	21	NCAC	54	.2001
<u>Nature of Supervision</u> Readopt with Changes*	21	NCAC	54	.2002
<u>Definition of Face to Face Supervision</u> Readopt with Changes*	21	NCAC	54	.2005
<u>Psychological Associate Activities</u> Readopt with Changes**	21	NCAC	54	.2006
<u>Applicants and Other Nonlicensed Individuals</u> Readopt without Changes*	21	NCAC	54	.2007
<u>Psychological Associate</u> Readopt with Changes**	21	NCAC	54	.2008
<u>Licensed Psychologist</u> Readopt with Changes*	21	NCAC	54	.2009
<u>License Renewal Form</u> Readopt with Changes*	21	NCAC	54	.2101
<u>Second Notice</u> Readopt without Changes*	21	NCAC	54	.2102
<u>Reinstatement</u> Readopt with Changes*	21	NCAC	54	.2103
<u>Continuing Education</u> Readopt with Changes*	21	NCAC	54	.2104
<u>Certificate of Registration</u> Readopt with Changes*	21	NCAC	54	.2202
<u>Renewal of Certificate of Registration</u> Readopt without Changes*	21	NCAC	54	.2203
<u>Right to Hearing</u> Readopt/Repeal*	21	NCAC	54	.2301
<u>Request for Hearing</u> Readopt/Repeal*	21	NCAC	54	.2302
<u>Granting or Denying Hearing Requests</u> Readopt/Repeal*	21	NCAC	54	.2303
<u>Notice of Hearing</u> Readopt with Changes*	21	NCAC	54	.2304
<u>Who Shall Hear Contested Cases</u> Readopt without Changes*	21	NCAC	54	.2305
<u>Disqualification of Board Member</u> Readopt without Changes*	21	NCAC	54	.2308
<u>Failure to Appear</u> Readopt without Changes*	21	NCAC	54	.2309
<u>Subpoenas</u> Readopt without Changes*	21	NCAC	54	.2311
<u>Presiding Officer</u> Readopt without Changes*	21	NCAC	54	.2314
<u>Petition for Rulemaking Hearings</u> Readopt without Changes*	21	NCAC	54	.2401
<u>Disposition of Petition</u> Readopt without Changes*	21	NCAC	54	.2402
<u>Request for Declaratory Ruling</u> Readopt without Changes*	21	NCAC	54	.2601

<u>Health Services Activities</u> Readopt with Changes*	21	NCAC	54	.2701
<u>Display of Certificate</u> Readopt with Changes*	21	NCAC	54	.2703
<u>HSP-P Requirements</u> Readopt with Changes*	21	NCAC	54	.2704
<u>HSP-PP Requirements</u> Readopt with Changes*	21	NCAC	54	.2705
<u>HSP-PA Requirements</u> Readopt with Changes*	21	NCAC	54	.2706
<u>Scope</u> Readopt without Changes*	21	NCAC	54	.2801
<u>Titles</u> Readopt without Changes*	21	NCAC	54	.2802
<u>Employment and Supervision of Unlicensed Individuals</u> Readopt without Changes*	21	NCAC	54	.2803
<u>Qualifications and Training</u> Readopt without Changes*	21	NCAC	54	.2804
<u>Services Appropriate for Ancillary Services Personnel</u> Readopt without Changes*	21	NCAC	54	.2805
<u>Services Not Appropriate for Unlicensed Individuals</u> Readopt without Changes*	21	NCAC	54	.2806

SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

The rules in Chapter 63 deal with Social Work Certification including general rules (.0100); certification (.0200); examinations (.0300); renewal of certification (.0400); ethical guidelines (.0500); disciplinary procedures (.0600); adoption of rules (.0700); and professional corporations and limited liability companies.

<u>Petition for Predetermination</u> Adopt*	21	NCAC	63	.0215
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STATE HUMAN RESOURCES COMMISSION

The rules in Subchapter 1E cover employee benefits including general leave provisions (.0100); vacation leave (.0200); sick leave (.0300); workers compensation leave (.0700); military leave (.0800); holidays (.0900); miscellaneous leave (.1000); other types of leave without pay (.1100); community involvement (.1200); the voluntary shared leave program (.1300); family and medical leave (.1400); child involvement leave (.1500); community services leave (.1600); administrative leave (.1700) and incentive leave (.1800).

<u>Separation: Payment of Vacation Leave</u> Amend*	25	NCAC	01E	.0210
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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>			
19	DHR	02708	10/9/2019	Deborah Washington	v.	North Carolina Division of Health Benefits Glana Surles	Malherbe
19	DHR	03473	10/15/2019	Karla Collard	v.	NC Department of Health and Human Services, Division of Social Services	Jacobs
19	DHR	04712	10/17/2019	Ali Alsaras owner Saras Inc D/B/A University Market	v.	NC Department of Health and Human Services	Ward
19	DOJ	01687	10/16/2019	Derrick Demond Lee	v.	NC Sheriffs Education and Training Standards Commission	Overby
19	DOJ	02981	10/30/2019	Shawn Brian Morris	v.	NC Sheriffs Education and Training Standards Commission	Sutton
19	DOJ	03749	10/15/2019	Shelly Lashawn Morales	v.	NC Private Protective Services Board	Bawtinheimer
19	DOJ	04702	10/15/2019	Douglas Earl Martin	v.	NC Private Protective Services Board	Bawtinheimer
18	DST	07704	10/28/2019	Ritchie Darnell Longworth	v.	State Treasurer of North Carolina Retirement Systems Division	May
				<u>Unpublished</u>			
19	ABC	04313	10/22/2019	NC Alcoholic Beverage Control Commission	v.	Jensen Restaurant Ventures LLC T/A Edenton Oyster Bar	Overby
19	ABC	04553	10/16/2019	NC Alcoholic Beverage Control Commission	v.	Wachdi R Khamis Awad T/A Brothers in the Hood	Overby
19	CSE	02932	10/22/2019	Jeremiah Hightower	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward

CONTESTED CASE DECISIONS

19	CSE	04087	10/1/2019	Joe Roswech	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Jacobs
19	DHR	02931	10/15/2019	The Moses H Cone Memorial Hospital and MC Kernersville LLC d/b/a Triad Surgery Center	v.	North Carolina Department of Health and Human Services, Division of Health Service Regulation, Health Care Planning & Certificate of Need	May
19	DHR	02954	10/18/2019	Marie Blamoh Teah	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
19	DHR	04140	10/9/2019	Ilene Knox	v.	NC Department of Health and Human Services, Division of Health Service Regulation	May
19	DHR	04634	10/28/2019	Kasey Ross	v.	Department of Health and Human Services, Division of Health Service Regulation Adult Care Licensure Section	May
19	DHR	04665	10/28/2019	Valerie Hernandez A	v.	NC Department of Health and Human Services, Division of Health Service Regulation	May
19	DHR	04718	10/24/2019	NOA Human Service(Nena Ikwechegh)	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification	May
19	DHR	05155	10/16/2019	Cindy Locklear	v.	Health Care Registry	Overby
19	DHR	05427	10/25/2019	Antoinette Rochelle H	v.	NC Department of Health and Human Services, Division of Child Development and Early Education	Lassiter
17	DOJ	04844	10/8/2019	S&M Brands, Inc	v.	North Carolina Department of Justice	Overby
19	DOJ	04336	10/8/2019	Anthony Clyde Fleener	v.	North Carolina Alarm Systems Licensing Board	Bawtinhimer
19	DOJ	04337	10/7/2019; 10/8/2019	Peggy Sue Dove	v.	NC Private Protective Services Board	Bawtinhimer
19	DOJ	04700	10/7/2019; 10/8/2019	Dwight Denorris Cox	v.	NC Private Protective Services Board	Bawtinhimer
19	DOJ	04701	10/8/2020	Michael Gray Parsons	v.	NC Private Protective Services Board	Bawtinhimer
19	EDC	03665	10/28/2019	Robert Marshall Hooks	v.	NC Departmetn of Public Instruction	May
19	EHR	04370	10/28/2019	DSF of NC Inc Javed Warriach	v.	NCDEQ	May
19	INS	04662	10/22/2019	Phyllis Charlene Dority	v.	NC Health Plan for Teachers and State Employees	Bawtinhimer
19	INS	04908	10/25/2019	Carolyn Lasater	v.	State Health Plan of NC Retirement Division	Malherbe
19	OSP	03050	10/4/2019	Andre Tyron Caldwell	v.	North Carolina Cental University	Jacobs

CONTESTED CASE DECISIONS

19	OSP	03990	10/3/2019; 10/4/2019	Kelly Butler Inman	v.	County of Alamance Alamance County Dept of Social Services	Ward
19	OSP	04217	10/9/2019	Susan Bunch	v.	Mount Airy School Board of Education	May