

NORTH CAROLINA REGISTER

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August 15, 2008

I. IN ADDITION	
Notice of Rule Making Proceedings and Public Hearing – Building Code	285 – 286
II. PROPOSED RULES	
Agriculture, Department of	
Agriculture, Board of	287 – 288
Commerce, Department of	
Cemetery Commission	288 – 289
Community Colleges, Department of	
Community Colleges, Board of	358 – 359
Environment and Natural Resources, Department of	
Wildlife Resources Commission	348 – 350
Health and Human Services, Department of	
Medical Care Commission	289 – 346
Justice, Department of	
Private Protective Services Board	346 – 348
Occupational Licensing Boards and Commissions	
Funeral Service, Board of	350 – 357
Pharmacy, Board of	357 – 358
III. RULES REVIEW COMMISSION	360 – 373
IV. CONTESTED CASE DECISIONS	
Index to ALJ Decisions	374 – 377

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Reuben Young reuben.young@ncmail.net
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116 West Jones Street(919)
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Legislative Process Concerning Rule-making

Joint Legislative Administrative Procedure Oversight Committee
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300 North Salisbury Street (919) 733-2578
Raleigh, North Carolina 27611 (919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney karenc@ncleg.net
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County and Municipality Government Questions or Notification

NC Association of County Commissioners
215 North Dawson Street (919) 715-2893
Raleigh, North Carolina 27603

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NORTH CAROLINA REGISTER
 Publication Schedule for January 2008 – December 2008

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	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 th day from publication in the Register
22:13	01/02/08	12/06/07	01/17/08	03/03/08	03/20/08	05/01/08	05/13/08	09/28/08
22:14	01/15/08	12/19/07	01/30/08	03/17/08	03/20/08	05/01/08	05/13/08	10/11/08
22:15	02/01/08	01/10/08	02/16/08	04/01/08	04/21/08	06/01/08	01/2009	10/28/08
22:16	02/15/08	01/25/08	03/01/08	04/15/08	04/21/08	06/01/08	01/2009	11/11/08
22:17	03/03/08	02/11/08	03/18/08	05/02/08	05/20/08	07/01/08	01/2009	11/28/08
22:18	03/17/08	02/25/08	04/01/08	05/16/08	05/20/08	07/01/08	01/2009	12/12/08
22:19	04/01/08	03/10/08	04/16/08	06/02/08	06/20/08	08/01/08	01/2009	12/27/08
22:20	04/15/08	03/25/08	04/30/08	06/16/08	06/20/08	08/01/08	01/2009	01/10/09
22:21	05/01/08	04/10/08	05/16/08	06/30/08	07/21/08	09/01/08	01/2009	01/26/09
22:22	05/15/08	04/24/08	05/30/08	07/14/08	07/21/08	09/01/08	01/2009	02/09/09
22:23	06/02/08	05/09/08	06/17/08	08/01/08	08/20/08	10/01/08	01/2009	02/27/09
22:24	06/16/08	05/23/08	07/01/08	08/15/08	08/20/08	10/01/08	01/2009	03/13/09
23:01	07/01/08	06/10/08	07/16/08	09/02/08	09/22/08	11/01/08	01/2009	03/28/09
23:02	07/15/08	06/23/08	07/30/08	09/15/08	09/22/08	11/01/08	01/2009	04/11/09
23:03	08/01/08	07/11/08	08/16/08	09/30/08	10/20/08	12/01/08	01/2009	04/28/09
23:04	08/15/08	07/25/08	08/30/08	10/14/08	10/20/08	12/01/08	01/2009	05/12/09
23:05	09/02/08	08/11/08	09/17/08	11/03/08	11/20/08	01/01/09	01/2009	05/30/09
23:06	09/15/08	08/22/08	09/30/08	11/14/08	11/20/08	01/01/09	01/2009	06/12/09
23:07	10/01/08	09/10/08	10/16/08	12/01/08	12/22/08	02/01/09	05/2010	06/28/09
23:08	10/15/08	09/24/08	10/30/08	12/15/08	12/22/08	02/01/09	05/2010	07/12/09
23:09	11/03/08	10/13/08	11/18/08	01/02/09	01/20/09	03/01/09	05/2010	07/31/09
23:10	11/17/08	10/24/08	12/02/08	01/16/09	01/20/09	03/01/09	05/2010	08/14/09
23:11	12/01/08	11/05/08	12/16/08	01/30/09	02/20/09	04/01/09	05/2010	08/28/09
23:12	12/15/08	11/20/08	12/30/08	02/13/09	02/20/09	04/01/09	05/2010	09/11/09

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) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) 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;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) 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.

FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.

**NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING
NORTH CAROLINA BUILDING CODE COUNCIL**

Notice of Rule-making Proceedings is hereby given by NC Building Code Council in accordance with G.S. 150B-21.5(d).

Citation to Existing Rule Affected by this Rule-Making: *North Carolina Building, Fire, Plumbing and Residential Codes.*

Authority for Rule-making: *G.S. 143-136; 143-138.*

Reason for Proposed Action: *To incorporate changes in the NC State Building Codes as a result of rulemaking petitions filed with the NC Building Code Council and to incorporate changes proposed by the Council.*

Public Hearing: *September 8, 2008, 1:00PM, Wake County Commons, 4011 Cary Drive, Raleigh, NC 27610*

Comment Procedures: *Written comments may be sent to Chris Noles, Secretary, NC Building Code Council, NC Department of Insurance, 322 Chapanoke Road, Suite 200, Raleigh, NC 27603. Comment period expires on October 14, 2008.*

Statement of Subject Matter:

1. Request by David E. Gall, Architect, P.A., to amend the Chapter 4 and Chapter 9 of the 2009 NC Building Code. The proposed amendment is as follows:

422.1. Existing A-2 and A-3 Occupancies shall be permitted to provide facilities for temporary overflow emergency shelters for the homeless provided that all of the following conditions are met and approved by the local code official and fire marshal:

.1 The total number of homeless Occupants is limited to 20 individuals who are ambulatory. The homeless Occupants must be 18 years of age or older.

.2 The building used for the temporary overflow emergency shelter must be of Type I, II, or III construction.

.3 The temporary overflow emergency shelter must be staffed by a minimum of two individuals of 21 years of age or older trained in accordance with Chapter 4 of the NC Fire Code and at least one trained individual shall be awake to monitor the sleeping room and restrooms throughout the time the facility is occupied by the homeless.

.4 Functioning smoke detection and a local fire alarm system per 907.2.8 shall be provided throughout the sleeping room and exit access corridors and stairs of the temporary overflow emergency shelter.

.5 There shall be a minimum of two separate code compliant means of egress serving the temporary overflow emergency shelter. An evacuation route approved by the local code official and fire marshal shall be posted and be in compliance with Sections 404, 406, and 408 of the NC Fire Code.

.6 There shall be no lockable doors between sleeping rooms and required exits.

.7 The temporary overflow emergency shelter sleeping room and exit access corridors and stairs shall have night-lighting and emergency lighting with back-up power.

.8 No fire protection sprinkler system is required per 903.2.7, Exception #2.

.9 Heating, cooling, and ventilation must be provided by equipment installed and approved for such use. No space heaters are permitted.

.10 There must be an adequate number of fire extinguishers to serve the temporary overflow emergency shelter as determined by the local fire marshal. Travel distance to an approved fire extinguisher shall not exceed 50 feet. Minimum rating of extinguishers shall be 3A40BC.

.11 No smoking is permitted in the temporary overflow emergency shelter.

.12 Building Owner must submit documentation illustrating that the fire alarm system is approved and that all emergency batteries have been tested and are operational.

.13 Temporary overflow emergency shelters must be approved by the local code official for Occupancy by issuance of an approved Occupancy Permit. Drawings of the temporary overflow emergency shelter sealed by a NC licensed architect or engineer must be provided for local code official review and approval.

.14 Compliance with NC Accessibility code for temporary overflow emergency shelters is not required provided that the local jurisdiction has other shelter facilities that are accessible by the disabled.

.15 Occupancy of a temporary overflow emergency shelter shall be for a maximum of 150 calendar days within any 365 day time span.

903.2.7 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

1. An automatic sprinkler system is not required in Group R-3 and R-4 adult and child day care facilities.

2. an automatic sprinkler system is not required in Group R-1 for temporary overflow emergency shelters per 422.1.

2. Request by Michael D. Crotts, City of Morganton, to amend the 2009 NC Building Code by adding a new Section 422. The proposed amendment is as follows:

422.1 Classification. Existing Church Buildings (places of worship) to be used as Temporary Homeless Shelters. R-1 use in an A-3 occupancy.

422.1.1 Fire Extinguishers shall be installed in accordance with the North Carolina Fire Prevention Code.

422.2 Non-sprinklered buildings to be occupied for Temporary Homeless Shelters must meet all the following:

- 1.** Shelters would be limited to a maximum of 20 homeless persons.
- 2.** The temporary shelters would be for adults only, no children under the age of 16 years.
- 3.** The buildings would be a minimum of Type I, II, or III, construction.
- 4.** The temporary shelters would have to be staffed by adults (21 years or older).
- 5.** Each shelter would have a minimum of 2 staff persons 1 of which would be awake at all times the shelter is occupied to provide a fire watch. There would also be a posted evacuation route approved by the Fire Official. These facilities would be non-smoking.
- 6.** Shelters would be required to acquire a building permit and be inspected by the Building and Fire Official for egress and safety.
- 7.** Temporary shelters would be allowed only for 120 days after approval and be renewable no more than 2 concurrent permits in a calendar year.

422.3 No requirements currently exist in the North Carolina Accessibility Code for Emergency Shelters. The U.S. Department of Justice ADA Checklist for Emergency Shelters document may be used for Accessibility Guidelines.

3. Request by Michael D. Crotts, City of Morganton, to amend the 2009 Fire Code, Section 903.2. The proposed amendment is as follows:

903.2.7 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

- 1.** An automatic sprinkler system is not required in Group R-3 and R-4 adult and child day care facilities.
- 2.** Temporary Homeless Shelters. See Section 422

4. Request by Kirk Aten, with Mecklenburg County Code Enforcement, to amend the 2009 NC Building Code, Chapter 11, Accessibility. The proposed amendment is as follows:

1104.3.2 Press boxes: Press boxes in assembly areas shall be on an accessible route.

Exceptions:

- 1.** An accessible route shall not be required to press boxes in bleachers that have points of entry at only one level, provided that the aggregate area of all press boxes is 500 square feet (46 m²) maximum.
- 2.** An accessible route shall not be required to free-standing press boxes that are elevated above grade 12 feet (3660 mm) minimum provided that the aggregate area of all press boxes is 500 square feet (46 m²) maximum.

5. Request by William Eubanks, New Hanover County Inspections, to amend the 2009 NC Plumbing Code, Section 305.6. The proposed amendment is as follows:

305.6 Freezing. The top of water pipes, installed below grade outside the building, shall be below the frost line or a minimum of 12 inches below finished grade whichever is greater. Water pipes installed in a wall exposed to the exterior shall be located on the heated side of the wall insulation. Water piping installed in an unconditioned attic or unconditioned utility room shall be insulated with an insulation having a minimum R factor of 6.5 determined at 75 degrees Fahrenheit in accordance with ASTM C-177.

Exception: Water Piping installed in attics directly on top of ceiling joists and directly beneath the attic insulation does not need to be insulated with an insulation having a minimum R factor of 6.5. The piping must be covered with a tent of 4 mil. poly to prevent the building insulation from cutting off heat loss through the ceiling reaching the pipe.

6. Request by Jeff Griffin, Mecklenburg County Government, to amend the 2009 NC Residential Code. The proposed amendment is as follows:

Complete revision on Appendix M Wood Decks.

The proposed Appendix M text may be viewed at the following link:

http://www.ncdoi.com/OSFM/Engineering/BCC/engineering_bcc_minutes.asp

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 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Agriculture intends to amend the rule cited as 02 NCAC 48A .1703.

Proposed Effective Date: December 1, 2008

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than August 30th, 2008, to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.

Reason for Proposed Action: The proposed amendments would add regulated areas for Beach Vitex and Bushkiller, two plants which have been proposed for addition to the list of noxious weeds under 02 NCAC 48A .1702.

Procedure by which a person can object to the agency on a proposed rule: Any person may object to the proposed rules by submitting a written statement of objection(s) to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.

Comments may be submitted to: David S. McLeod, 1001 Mail Service Center, Raleigh, NC 27699-1001, phone (919) 733-7125 extension 238, fax (919) 716-0090, email david.mcleod@ncmail.net

Comment period ends: October 14, 2008

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 48 - PLANT INDUSTRY

SUBCHAPTER 48A - PLANT PROTECTION

SECTION .1700 - STATE NOXIOUS WEEDS

02 NCAC 48A .1703 REGULATED AREAS

(a) Except as permitted in 02 NCAC 48A .1705 and .1706, the following is prohibited:

- (1) The movement of Beach Vitex (Vitex rotundifolia L.F.) or any regulated article infested with Beach Vitex from the following counties: Brunswick, Carteret, Currituck, Dare, Hyde, New Hanover, Onslow, Pender;
- (2) The movement of Bushkiller (Cayratia japonica Thunb.) or any regulated article infested with Bushkiller from the following counties: Davidson, Forsyth, Franklin, Mecklenburg;
- ~~(3)~~(3) The movement of Canada Thistle [Cirsium arvense (L.) Scop.] or any regulated article infested with Canada Thistle from the following counties: Ashe, Avery, Haywood, Mitchell, Northampton, Yancey;
- ~~(2)~~(4) The movement of Class A, B, or C noxious weeds or any regulated article infested with Class A, B, or C noxious weeds into North Carolina;
- ~~(3)~~(5) The movement of a Class A noxious weed or any regulated article infested with any Class A noxious weed is prohibited within the state;
- ~~(4)~~(6) The movement of Eurasian Watermilfoil (Myriophyllum spicatum L.) or any regulated article infested with Eurasian Watermilfoil from the following counties: Halifax, Northampton, Perquimans, Tyrrell, Warren;
- ~~(5)~~(7) The movement of Florida Betony (Stachys floridana Shuttlew.) or any regulated article infested with Florida Betony from the following counties: Bladen, Brunswick, Cumberland, Forsyth, Hoke, New Hanover, Onslow, Wake;
- ~~(6)~~(8) The movement of Musk Thistle (Carduus nutans L.) or any regulated article infested with Musk Thistle from the following

counties: Buncombe, Cleveland, Chatham, Gaston, Henderson, Lincoln, Madison, Randolph, Rowan, Rutherford;

- ~~(7)~~(9) The movement of Plumeless Thistle (*Cardus acanthoides* L.) or any regulated article infested with Plumeless Thistle from the following counties: Haywood, Jackson, Madison, Watauga;
- ~~(8)~~(10) The movement of Puncturevine (*Tribulus terrestris* L.) or any regulated article infested with Puncturevine from the following counties: Durham, New Hanover;
- ~~(9)~~(11) The movement of any *Lythrum* species not native to North Carolina or any regulated article infested with any nonnative *Lythrum* species from the following counties: Forsyth, Watauga;
- ~~(10)~~(12) The movement of Uruguay Waterprimrose [*Ludwigia hexapetala* (Hook & Arn.) Zardini, Gu & Raven] or any regulated article infested with Uruguay Waterprimrose from the following counties: Bladen, Brunswick, Columbus, Durham, Granville, Hyde, New Hanover, Orange, Rowan, Wake, Warren;
- ~~(11)~~(13) The movement of Yellow Fieldcress [*Rorippa sylvestris* (L.) Bess.] or any regulated article infested with Yellow Fieldcress from the following county: Orange;
- ~~(12)~~(14) The movement of Oriental Bittersweet (*Celastrus orbiculatus* Thunb.) or any regulated article infested with Oriental Bittersweet from the following counties: Alleghany, Ashe, Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, Mitchell, Swain, Transylvania, Watauga, Wilkes, Yancey;
- ~~(13)~~(15) The sale or distribution of any Class A or B noxious weed;
- ~~(14)~~(16) The sale or distribution of any Class C noxious weed outside a regulated area.

(b) Other regulated areas. The Commissioner may designate as a regulated area any state or portion of a state in which there is reasonable cause to believe that a noxious weed exists, and there is an immediate need to prevent its introduction, spread or dissemination in North Carolina.

Authority G.S. 106-420; 106-421.

TITLE 04 – DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Cemetery Commission intends to amend the rule cited as 04 NCAC 05D .0202.

Proposed Effective Date: December 1, 2008

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Any person who demands a public hearing shall submit a letter of objection in writing by US Postal Service to Jimmy Miller, 1001 Navaho Drive, Suite 100, Raleigh, NC 27609. The letter of demand must be postmarked no later than August 30, 2008.

Reason for Proposed Action: Regarding delivery of cemetery merchandise in storage at the cemetery, rule makes reference to a report by a "licensed public accountant", a term that is prohibited from use in North Carolina by N.C.G.S. 93-6. This amendment removes that reference, permitting a certified public accountant.

Procedure by which a person can object to the agency on a proposed rule: Any person who objects to a proposed rule amendment shall either submit a letter of objection in writing to Jimmy Miller, 1001 Navaho Drive, Suite 100, Raleigh, NC 27609.

Comments may be submitted to: Jimmy Miller, 1001 Navaho Drive, Suite 100, Raleigh, NC 27609, phone (919) 981-2536, fax (919) 981-2538, email jmiller@nccommerce.com

Comment period ends: October 14, 2008

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 05 - CEMETERY COMMISSION

SUBCHAPTER 05D - TRUST FUNDS

SECTION .0200 - PRE-NEED CEMETERY MERCHANDISE: PRE-CONSTRUCTED MAUSOLEUMS AND BELOW GROUND CRYPTS TRUST FUNDS

04 NCAC 05D .0202 DELIVERY

(a) Vaults and crypts shall not be considered delivered unless installed or stored on the cemetery premises or stored off

premises by a supplier. If vaults are not to be installed, the contract between cemetery and purchaser must so state in bold print that purchaser has accepted above ground delivery. If vault is to be installed, then the contract must be broken down into sales cost and installation cost.

(b) Markers, bases and vases shall not be considered delivered unless installed or stored at the cemetery or if stored off premises by a supplier, there shall be no additional charge for delivery or freight, unless specified in bold print in the contract. If vaults, crypts or other merchandise are stored off premises the cemetery company must submit to the Cemetery Commission not less than annually a report by a certified public accountant of each item which has been purchased through a North Carolina cemetery company and which at the date of the report was then in storage and properly designated the property of the cemetery company's customer and not the property of the supplier. If vaults, crypts or other merchandise are stored at the cemetery the cemetery company must submit to the Cemetery Commission not less than annually a report by a certified or licensed public accountant of each item which has been purchased and which at the date of the report was then in storage and properly designated the property of the cemetery company's customer.

(c) If opening and closing of crypts at the time of interment are not included in the cost of this merchandise, then it must be so stated in bold print on the contract between cemetery and purchaser.

Authority G.S. 65-49.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Care Commission intends to adopt the rules cited as 10A NCAC 13P .0305, .0511, amend the rules cited as 10A NCAC 13P .0101-.0102, .0201-.0202, .0204-.0210, .0212-.0215, .0301-.0302, .0401-.0406, .0408-.0409, .0501-.0502, .0504, .0507-.0510, .0601-.0603, .0701, .0901-.0905, .1101-.1103 and repeal the rules cited as 10A NCAC 13P .0103-.0107, .0109-.0124, .0303-.0304, .0801, .1001-.1002; 13Q .0101-.0103; 13R .0101, .0103-.0105, .0201-.0202, .0504-.0206, .0301.

Proposed Effective Date: January 1, 2009

Public Hearing:

Date: September 23, 2008

Time: 10:00 a.m.

Location: Room 201 Council Building, Division of Health Service Regulation, Dorothea Dix Campus, 701 Barbour Drive, Raleigh, NC 27603.

Reason for Proposed Action: The Emergency Medical Services and Trauma Rules, EMS Formula Grants, and Minimum Standards for Mobile Intensive Care Units Rules were reviewed by the agency and found to be in need of updating. The rules are being adopted, amended or repealed to conform to new General Statute mandates for criminal history background

checks, differentiate between rotary wing and fixed wing aircraft, conform to current standards of the NC College of Emergency Physicians, reorganize the Subchapter for uniformity of rule subjects and/or add clarity to existing rule language.

Procedure by which a person can object to the agency on a proposed rule: An individual may object to the agency on the proposed rules by submitting written comments on the proposed rules. They may also object by attending the public hearing and personally voice their objections during that time.

Comments may be submitted to: Nadine Pfeiffer, Division of Health Service Regulation, 2701 Mail Service Center, Raleigh, NC 27699-2701, fax (919)733-2757, email DHSR.RulesCoordinator@ncmail.net

Comment period ends: September 30, 2008

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact: A copy of the fiscal note can be obtained from the agency.

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 13 – NC MEDICAL CARE COMMISSION

SUBCHAPTER 13P – EMERGENCY MEDICAL SERVICES AND TRAUMA RULES

SECTION .0100 – DEFINITIONS

10A NCAC 13P .0101 ABBREVIATIONS

As used in this Subchapter, the following abbreviations mean:

- (1) ACS: American College of Surgeons;
- (4)(2) AHA: American Heart Association;
- (3) ATLS: Advanced Trauma Life Support;
- (4) CA3: Clinical Anesthesiology Year 3;
- (5) CRNA: Certified Registered Nurse Anesthetist;
- (2)(6) CPR: Cardiopulmonary Resuscitation;
- (7) DOA: Dead on Arrival;
- (8) ED: Emergency Department;

- ~~(3)~~(9) EMD: Emergency Medical Dispatcher;
- ~~(4)~~(10) EMDPRS: Emergency Medical Dispatch Priority Reference System;
- ~~(5)~~(11) EMS: Emergency Medical Services;
- ~~(6)~~(12) EMS-NP: EMS Nurse Practitioner;
- ~~(7)~~(13) EMS-PA: EMS Physician Assistant;
- ~~(8)~~(14) EMT: Emergency Medical Technician;
- ~~(9)~~(15) EMT-I: EMT-Intermediate;
- ~~(10)~~(16) EMT-P: EMT-Paramedic;
- (17) ENT: Ear, Nose and Throat;
- (18) FAA: Federal Aviation Administration;
- (19) FAR: Federal Aviation Regulation;
- (20) FCC: Federal Communications Commission;
- (21) GSC: Glasgow Coma Scale;
- (22) ICD: International Classification of Diseases;
- (23) ISS: Injury Severity Score;
- (24) IV: Intravenous;
- (25) LPN: Licensed Practical Nurse;
- ~~(11)~~(26) MICN: Mobile Intensive Care Nurse;
- ~~(12)~~(27) MR: Medical Responder;
- ~~(13)~~(28) NHTSA: National Highway Traffic Safety Administration;
- ~~(14)~~(29) OEMS: Office of Emergency Medical Services; ~~and~~
- (30) OMF: Oral maxillofacial;
- (31) OR: Operating Room;
- (32) PGY2: Post Graduate Year 2;
- (33) PGY4: Post Graduate Year 4;
- (34) PSAP: Public Safety Answering Point;
- (35) RAC: Regional Advisory Committee;
- (36) RFP: Request For Proposal;
- (37) RN: Registered Nurse;
- (38) SCTP: Specialty Care Transport Program;
- (39) SMARTT: State Medical Asset and Resource Tracking Tool;
- (40) STEMI: ST Elevation Myocardial Infarction;
- (41) TR: Trauma Registrar;
- (42) TNC: Trauma Nurse Coordinator;
- (43) TPM: Trauma Program Manager; ~~and~~
- ~~(15)~~(44) US DOT: United States Department of Transportation.

- Licensing as required by Rule .0204(a)(1) of this Subchapter.
- ~~(3)~~ "Affiliated Hospital" means a non-Trauma Center hospital that is owned by the Trauma Center or there exists a contract or other agreement to allow for the acceptance or transfer of the Trauma Center's patient population to the non-Trauma Center hospital.
- ~~(4)~~ "Air Medical Ambulance" means an aircraft configured and medically equipped to transport patients by air. The patient care compartment of air medical ambulances shall be staffed by medical crew members approved for the mission by the medical director.
- ~~(5)~~ "Air Medical Program" means a SCTP or EMS System utilizing rotary-wing or fixed-wing aircraft configured and operated to transport patients.
- ~~(6)~~ "Assistant Medical Director" means a physician, EMS-PA, or EMS-NP who assists the medical director with the medical aspects of the management of an EMS System or EMS SCTP.
- ~~(7)~~ "Attending" means a physician who has completed medical or surgical residency and is either eligible to take boards in a specialty area or is boarded in a specialty.
- ~~(8)~~ "Board Certified, Board Certification, Board Eligible, Board Prepared, or Boarded" means approval by the American Board of Medical Specialties, the Advisory Board for Osteopathic Specialties, or the Royal College of Physicians and Surgeons of Canada unless a further sub-specialty such as the American Board of Surgery or Emergency Medicine is specified.
- ~~(9)~~ "Bypass" means the transport of an emergency medical services patient from the scene of an accident or medical emergency past an emergency medical services receiving facility for the purposes of accessing a facility with a higher level of care, or a hospital of its own volition reroutes a patient from the scene of an accident or medical emergency or referring hospital to a facility with a higher level of care.
- ~~(10)~~ "Contingencies" mean conditions placed on a trauma center's designation that, if unmet, can result in the loss or amendment of a hospital's designation.
- ~~(11)~~ "Convalescent Ambulance" means an ambulance used on a scheduled basis solely to transport patients having a known non-emergency medical condition. Convalescent ambulances shall not be used in place of any other category of ambulance defined in this Subchapter.
- ~~(12)~~ "Clinical Anesthesiology Year 3" means an anesthesiology resident having completed two

Authority G.S. 143-508(b).

10A NCAC 13P .0102 DEFINITIONS

As used in this Subchapter, "Air Medical Ambulance" means an aircraft specifically designed and equipped to transport patients by air. The patient care compartment of air medical ambulances shall be staffed by medical crew members approved for the mission by the medical director.

The following definitions apply throughout this Subchapter:

- (1) "Advanced Trauma Life Support" means the course sponsored by the American College of Surgeons.
- (2) "Affiliated EMS Provider" means the firm, corporation, agency, organization, or association identified to a specific county EMS system as a condition for EMS Provider

- clinical years of general anesthesiology training. A pure laboratory year shall not constitute a clinical year.
- (13) "Deficiency" means the failure to meet essential criteria for a trauma center's designation as specified in Section .0900 of this Subchapter, that can serve as the basis for a focused review or denial of a trauma center designation.
- (14) "Department" means the North Carolina Department of Health and Human Services.
- (15) "Diversion" means the hospital is unable to accept a pediatric or adult patient due to a lack of staffing or resources.
- (16) "E-Code" means a numeric identifier that defines the cause of injury, taken from the ICD.
- (17) "Educational Medical Advisor" means the physician responsible for overseeing the medical aspects of approved EMS educational programs in continuing education, basic, and advanced EMS educational institutions.
- (18) "EMS Care" means all services provided within each EMS System that relate to the dispatch, response, treatment, and disposition of any patient that would require the submission of System Data to the OEMS.
- (19) "EMS Educational Institution" means any agency credentialed by the OEMS to offer EMS educational programs.
- (20) "EMS Nontransporting Vehicle" means a motor vehicle dedicated and equipped to move medical equipment and EMS personnel functioning within the scope of practice of EMT-I or EMT-P to the scene of a request for assistance. EMS nontransporting vehicles shall not be used for the transportation of patients on the streets, highways, waterways, or airways of the state.
- (21) "EMS Peer Review Committee" means a committee as defined in G.S. 131E-155(a)(6b).
- (22) "EMS Performance Improvement Toolkits" mean one or more reports generated from the state EMS data system analyzing the EMS service delivery, personnel performance, and patient care provided by an EMS system and its associated EMS agencies and personnel. Each EMS toolkit focuses on a topic of care such as trauma, cardiac arrest, EMS response times, stroke, STEMI (heart attack), and pediatric care.
- (23) "EMS Provider" means those entities defined in G.S. 131E-155 (13a) that hold a current license issued by the Department pursuant to G.S. 131E-155.1.
- (24) "EMS System" means a coordinated arrangement of local resources under the authority of the county government (including all agencies, personnel, equipment, and facilities) organized to respond to medical emergencies and integrated with other health care providers and networks including, but not limited to, public health, community health monitoring activities, and special needs populations.
- (25) "EMS System Peer Groups" are defined as:
- (a) Urban EMS System means greater than 200,000 population;
- (b) Suburban EMS System means from 75,001 to 200,000 population;
- (c) Rural EMS System means from 25,001 to 75,000 population; and
- (d) Wilderness EMS System means 25,000 population or less.
- (26) "Essential Criteria" means those items listed in Rules .0901, .0902, and .0903 of this Subchapter that are the minimum requirements for the respective level of trauma center designation (I, II, or III).
- (27) "Focused Review" means an evaluation by the OEMS of a trauma center's corrective actions to remove contingencies that are a result of deficiencies placed upon it following a renewal site visit.
- (28) "Ground Ambulance" means an ambulance used to transport patients with traumatic or medical conditions or patients for whom the need for emergency or non-emergency medical care is anticipated either at the patient location or during transport.
- (29) "Hospital" means a licensed facility as defined in G.S. 131E-176.
- (30) "Immediately Available" means the physical presence of the health professional or the hospital resource within the trauma center to evaluate and care for the trauma patient without delay.
- (31) "Inclusive Trauma System" means an organized, multi-disciplinary, evidence-based approach to provide quality care and to improve measurable outcomes for all defined injured patients. EMS, hospitals, other health systems and clinicians shall participate in a structured manner through leadership, advocacy, injury prevention, education, clinical care, performance improvement and research resulting in integrated trauma care.
- (32) "Infectious Disease Control Policy" means a documented policy describing how the EMS system will protect and prevent its patients and EMS professionals from exposure and illness associated with contagions and infectious disease.
- (33) "Lead RAC Agency" means the agency (comprised of one or more Level I or II trauma centers) that provides staff support and serves as the coordinating entity for trauma planning in a region.

- (34) "Level I Trauma Center" means a hospital that has the capability of providing leadership, research, and total care for every aspect of injury from prevention to rehabilitation.
- (35) "Level II Trauma Center" means a hospital that provides trauma care regardless of the severity of the injury but may not be able to provide the same comprehensive care as a Level I trauma center and does not have trauma research as a primary objective.
- (36) "Level III Trauma Center" means a hospital that provides prompt assessment, resuscitation, emergency operations, and stabilization, and arranges for hospital transfer as needed to a Level I or II trauma center.
- (37) "Licensed Health Care Facility" means any health care facility or hospital licensed by the Department of Health and Human Services, Division of Health Service Regulation.
- (38) "Medical Crew Member" means EMS personnel or other health care professionals who are licensed or registered in North Carolina and are affiliated with a SCTP.
- (39) "Medical Director" means the physician responsible for the medical aspects of the management of an EMS System or SCTP.
- (40) "Medical Oversight" means the responsibility for the management and accountability of the medical care aspects of an EMS System or SCTP. Medical Oversight includes physician direction of the initial education and continuing education of EMS personnel or medical crew members; development and monitoring of both operational and treatment protocols; evaluation of the medical care rendered by EMS personnel or medical crew members; participation in system or program evaluation; and directing, by two-way voice communications, the medical care rendered by the EMS personnel or medical crew members.
- (41) "Mid-level Practitioner" means a nurse practitioner or physician assistant who routinely cares for trauma patients.
- (42) "Model EMS System" means an EMS System that is recognized and designated by the OEMS for meeting and mastering quality and performance indicator criteria as defined by the OEMS.
- (43) "Off-line Medical Control" means medical supervision provided through the EMS System Medical Director or SCTP Medical Director who is responsible for the day to day medical care provided by EMS personnel. This includes but is not limited to EMS personnel education, protocol development, quality management, peer review activities, and EMS administrative responsibilities related to assurance of quality medical care.
- (44) "Office of Emergency Medical Services" means a section of the Division of Health Service Regulation of the North Carolina Department of Health and Human Services located at 701 Barbour Drive, Raleigh, North Carolina 27603.
- (45) "On-line Medical Control" means the medical supervision or oversight provided to EMS personnel through direct communication in person, via radio, cellular phone, or other communication device during the time the patient is under the care of an EMS professional. The source of on-line medical control is typically a designated hospital's emergency department physician, EMS nurse practitioner, or EMS physician assistant.
- (46) "Operational Protocols" means the administrative policies and procedures of an EMS System that provide guidance for the day-to-day operation of the system.
- (47) "Participating Hospital" means a hospital that supplements care within a larger trauma system by the initial evaluation and assessment of injured patients for transfer to a designated trauma center if needed.
- (48) "Physician" means a medical or osteopathic doctor licensed by the North Carolina Medical Board to practice medicine in the state of North Carolina.
- (49) "Post Graduate Year Two" means any surgery resident having completed one clinical year of general surgical training. A pure laboratory year shall not constitute a clinical year.
- (50) "Post Graduate Year Four" means any surgery resident having completed three clinical years of general surgical training. A pure laboratory year shall not constitute a clinical year.
- (51) "Promptly Available" means the physical presence of health professionals in a location in the trauma center within a short period of time, that is defined by the trauma system (director) and continuously monitored by the performance improvement program.
- (52) "Regional Advisory Committee (RAC)" means a committee comprised of a lead RAC agency and a group representing trauma care providers and the community, for the purpose of regional trauma planning, establishing, and maintaining a coordinated trauma system.
- (53) "Request for Proposal (RFP)" means a state document that must be completed by each hospital seeking initial or renewal trauma center designation.
- (54) "State Medical Asset and Resource Tracking Tool (SMARTT)" means the Internet web-based program used by the OEMS both daily in its operations and during times of disaster to identify, record and monitor EMS, hospital, health care and sheltering resources statewide.

- including but not limited to facilities, personnel, vehicles, equipment, pharmaceutical and supply caches.
- (55) "Specialty Care Transport Program" means a program designed and operated for the provision of specialized medical care and transportation of critically ill or injured patients between health care facilities and for patients who are discharged from a licensed health care facility to their residence that require specialized medical care during transport which exceeds the normal capability of the local EMS System.
- (56) "Specialty Care Transport Program Continuing Education Coordinator" means a Level I EMS Instructor within a SCTP who is responsible for the coordination of EMS continuing education programs for EMS personnel within the program.
- (57) "Stroke" means an acute cerebrovascular hemorrhage or occlusion resulting in a neurologic deficit.
- (58) "System Continuing Education Coordinator" means the Level I EMS Instructor designated by the local EMS System who is responsible for the coordination of EMS continuing education programs.
- (59) "System Data" means all information required for daily electronic submission to the OEMS by all EMS Systems using the EMS data set, data dictionary, and file format as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost.
- (60) "Transfer Agreement" means a written agreement between two agencies specifying the appropriate transfer of patient populations delineating the conditions and methods of transfer.
- (61) "Trauma Center" means a hospital facility designated by the State of North Carolina and distinguished by its ability to immediately manage, on a 24-hour basis, the severely injured patient or those at risk for severe injury.
- (62) "Trauma Center Criteria" means essential criteria to define Level I, II, or III trauma centers.
- (63) "Trauma Center Designation" means a process of approval in which a hospital voluntarily seeks to have its trauma care capabilities and performance evaluated by experienced on-site reviewers.
- (64) "Trauma Diversion" means a trauma center of its own volition declines to accept an acutely injured pediatric or adult patient due to a lack of staffing and/or resources.
- (65) "Trauma Guidelines" mean standards for practice in a variety of situations within the trauma system.
- (66) "Trauma Minimum Data Set" means the basic data required of all hospitals for submission to the trauma statewide database.
- (67) "Trauma Patient" means any patient with an ICD-9-CM discharge diagnosis 800.00-959.9 excluding 905-909 (late effects of injury), 910.0-924 (blisters, contusions, abrasions, and insect bites), and 930-939 (foreign bodies).
- (68) "Trauma Program" means an administrative entity that includes the trauma service and coordinates other trauma related activities. It must also include, at a minimum, the trauma medical director, trauma program manager/trauma coordinator, and trauma registrar. This program's reporting structure shall give it the ability to interact with at least equal authority with other departments providing patient care.
- (69) "Trauma Protocols" mean standards for practice in a variety of situations within the trauma system.
- (70) "Trauma Registry" means a disease-specific data collection composed of a file of uniform data elements that describe the injury event, demographics, pre-hospital information, diagnosis, care, outcomes, and costs of treatment for injured patients collected and electronically submitted as defined by the OEMS.
- (71) "Trauma Service" means a clinical service established by the medical staff that has oversight of and responsibility for the care of the trauma patient.
- (72) "Trauma Team" means a group of health care professionals organized to provide coordinated and timely care to the trauma patient.
- (73) "Treatment Protocols" means a document approved by the medical directors of both the local EMS System or Specialty Care Transport Program and the OEMS specifying the diagnostic procedures, treatment procedures, medication administration, and patient-care-related policies that shall be completed by EMS personnel or medical crew members based upon the assessment of a patient.
- (74) "Triage" means the assessment and categorization of a patient to determine the level of EMS and healthcare facility based care required.
- (75) "Water Ambulance" means a watercraft specifically configured and medically equipped to transport patients.

Authority G.S. 131E-155(a)(6b); 131E-162; 143-508(b),(d)(1),(d)(3),(d)(4),(d)(6),(d)(7),(d)(8),(d)(13); 143-518(a)(5).

10A NCAC 13P .0103 AIR MEDICAL PROGRAM

~~As used in this Subchapter, "Air Medical Program" means a Specialty Care Transport Program designed and operated for transportation of patients by either fixed or rotary wing aircraft.~~

Authority G.S. 143-508(b); 143-508(d)(1).

10A NCAC 13P .0104 ASSISTANT MEDICAL DIRECTOR

~~As used in this Subchapter, "Assistant Medical Director" means a physician, EMS PA, or EMS NP who assists the medical director with the medical aspects of the management of an EMS System or EMS Specialty Care Transport Program.~~

Authority G.S. 143-508(b).

10A NCAC 13P .0105 CONVALESCENT AMBULANCE

~~As used in this Subchapter, "Convalescent Ambulance" means an ambulance used on a scheduled basis solely to transport patients having a known non-emergency medical condition. Convalescent ambulances shall not be used in place of any other category of ambulance defined in this Subchapter.~~

Authority G.S. 143-508(b); 143-508(d)(8).

10A NCAC 13P .0106 EDUCATIONAL MEDICAL ADVISOR

~~As used in this Subchapter, "Educational Medical Advisor" means the physician responsible for overseeing the medical components of approved EMS educational programs in continuing education, basic, and advanced EMS educational institutions.~~

Authority G.S. 143-508(b); 143-508(d)(3).

10A NCAC 13P .0107 EMS EDUCATIONAL INSTITUTION

~~As used in this Subchapter, "EMS Educational Institution" means any agency credentialed by the OEMS to offer EMS educational programs.~~

Authority G.S. 143-508(b); 143-508(d)(4).

10A NCAC 13P .0109 EMS NONTRANSPORTING VEHICLE

~~As used in this Subchapter, "EMS Nontransporting Vehicle" means a motor vehicle dedicated and equipped to move medical equipment and EMS personnel functioning within the scope of practice of EMT I or EMT P to the scene of a request for assistance. EMS nontransporting vehicles shall not be used for the transportation of patients on the streets, highways, waterways, or airways of the state.~~

Authority G.S. 143-508(b); 143-508(d)(8).

10A NCAC 13P .0110 EMS SYSTEM

~~As used in this Subchapter, "EMS System" means a coordinated arrangement of resources (including personnel, equipment, and facilities) organized to respond to medical emergencies and integrated with other health care providers and networks including, but not limited to, public health, community health monitoring activities, and special needs populations.~~

Authority G.S. 143-508(b).

10A NCAC 13P .0111 GROUND AMBULANCE

~~As used in this Subchapter, "Ground Ambulance" means an ambulance used to transport patients with traumatic or medical conditions or patients for whom the need for emergency or non-emergency medical care is anticipated either at the patient location or during transport.~~

Authority G.S. 143-508(b); 143-508(d)(8).

10A NCAC 13P .0112 MEDICAL CREW MEMBERS

~~As used in this Subchapter, "Medical Crew Member" means EMS personnel or other health care professionals who are licensed or registered in North Carolina and are affiliated with a Specialty Care Transport Program.~~

Authority G.S. 143-508(b); 143-508(d)(3).

10A NCAC 13P .0113 MEDICAL DIRECTOR

~~As used in this Subchapter, "Medical Director" means the physician responsible for the medical aspects of the management of an EMS System or EMS Specialty Care Transport Program.~~

Authority G.S. 143-508(b).

10A NCAC 13P .0114 MEDICAL OVERSIGHT

~~As used in this Subchapter, "Medical Oversight" means the responsibility for the management and accountability of the medical care aspects of an EMS System or Specialty Care Transport Program. Medical Oversight includes physician direction of the initial education and continuing education of EMS personnel or medical crew members; development and monitoring of both operational and treatment protocols; evaluation of the medical care rendered by EMS personnel or medical crew members; participation in system or program evaluation; and directing, by two-way voice communications, the medical care rendered by the EMS personnel or medical crew members.~~

Authority G.S. 143-508(b).

10A NCAC 13P .0115 MODEL EMS SYSTEM

~~As used in this Subchapter, "Model EMS System" means an approved EMS System that chooses to meet the criteria for and receives this designation by the OEMS.~~

Authority G.S. 143-508(b).

10A NCAC 13P .0116 OFFICE OF EMERGENCY MEDICAL SERVICES

~~As used in this Subchapter, "Office of Emergency Medical Services (OEMS)" means a section of the Division of Health Service Regulation of the North Carolina Department of Health and Human Services located at 701 Barbour Drive, Raleigh, North Carolina 27603.~~

Authority G.S. 143-508(b).

10A NCAC 13P .0117 OPERATIONAL PROTOCOLS

~~As used in this Subchapter, "Operational Protocols" means the written administrative policies and procedures of an EMS System that provide guidance for the day to day operation of the system.~~

Authority G.S. 143-508(b).

10A NCAC 13P .0118 PHYSICIAN

~~As used in this Subchapter, "Physician" means a medical or osteopathic doctor licensed by the North Carolina Medical Board to practice medicine in the state of North Carolina.~~

Authority G.S. 143-508(b).

10A NCAC 13P .0119 EMS PEER REVIEW COMMITTEE

~~As used in this Subchapter, "EMS Peer Review Committee" means a committee as defined in G.S. 131E-155(a)(6b).~~

Authority G.S. 131E-155(a)(6b); 143-508(b); 143-518(a)(5).

10A NCAC 13P .0120 SPECIALTY CARE TRANSPORT PROGRAM

~~As used in this Subchapter, "Specialty Care Transport Program" means a program designed and operated for the provision of specialized medical care and transportation of critically ill or injured patients.~~

Authority G.S. 143-508(b); 143-508(d)(1).

10A NCAC 13P .0121 SPECIALTY CARE TRANSPORT PROGRAM CONTINUING EDUCATION COORDINATOR

~~As used in this Subchapter, "Specialty Care Transport Program Continuing Education Coordinator" means a Level I EMS Instructor within a specialty care transport program who is responsible for the coordination of EMS continuing education programs for EMS personnel within the program.~~

Authority G.S. 143-508(b); 143-508(d)(3); 143-508(d)(13).

10A NCAC 13P .0122 SYSTEM CONTINUING EDUCATION COORDINATOR

~~As used in this Subchapter, "System Continuing Education Coordinator" means a Level I EMS Instructor within a Model EMS System who is responsible for the coordination of EMS continuing education programs.~~

Authority G.S. 143-508(b); 143-508(d)(3); 143-508(d)(13).

10A NCAC 13P .0123 TREATMENT PROTOCOLS

~~As used in this Subchapter, "Treatment Protocols" means a written document approved by the medical directors of both the local EMS System or Specialty Care Transport Program and the OEMS specifying the diagnostic procedures, treatment procedures, medication administration, and patient care related policies that shall be completed by EMS personnel or medical crew members based upon the assessment of a patient.~~

Authority G.S. 143-508(b); 143-508(d)(6); 143-508(d)(7).

10A NCAC 13P .0124 WATER AMBULANCE

~~As used in this Subchapter, "Water Ambulance" means a watercraft specifically designed and equipped to transport patients.~~

Authority G.S. 143-508(b); 143-508(d)(8).

SECTION .0200 – EMS SYSTEMS

10A NCAC 13P .0201 EMS SYSTEM REQUIREMENTS

(a) County governments shall establish EMS Systems. Each EMS System shall have:

- (1) a defined geographical service area for the EMS System. The minimum service area for an EMS System shall be one county. There may be multiple EMS Provider service areas within the service area of an EMS System. The highest level of care offered within any EMS Provider service area must be available to the citizens within that service area 24 hours per day;
- (2) a defined scope of practice for all EMS personnel, functioning in the EMS System, within the parameters set forth by the North Carolina Medical Board pursuant to G.S. 143-514;
- (3) ~~a written plan~~ written policies and procedures describing the dispatch and coordination dispatch, coordination and oversight of all responders that provide EMS care, specialty patient care skills and procedures as defined in Rule .0301(a)(4) of this Subchapter, and ambulance transport within the system;
- (4) ~~at least one licensed EMS provider. For those systems with providers operating within the EMD, EMT I, or EMT P scope of practice, there shall be a plan for medical oversight required by Section .0400 of this Subchapter;~~ Provider;
- (5) ~~an identified number~~ a listing of permitted ambulances to provide coverage to the service area 24 hours per day;
- (6) personnel credentialed to perform within the scope of practice of the system and to staff the ambulance vehicles as required by G.S. 131E-158. There shall be a written plan for the use

- of credentialed EMS personnel for all practice settings used within the system;
- (7) ~~a mechanism to collect and electronically submit to the OEMS data that uses the EMS data set and data dictionary as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. EMS Systems shall comply with this requirement by July 1, 2004; documented policies and procedures specific to the utilization of the EMS System's EMS Care data for the daily and on-going management of all EMS System resources;~~
- (8) ~~a written infection control policy Infectious Disease Control Policy as defined in Rule .0102(31) of this Subchapter and documented procedures which are approved by the EMS System medical director that addresses address the cleansing and disinfecting of vehicles and equipment that are used to treat or transport patients;~~
- (9) ~~a written plan to provide orientation to personnel on EMS operations and related issues for hospitals routinely receiving patients from the EMS System;~~
- (10)(9) ~~a listing of facilities that will provide online medical direction for systems with providers operating within the EMT, EMT I, or EMT P scope of practice. To provide online medical direction, the facility shall have:~~
- (A) ~~availability of a physician, MICN, EMS NP, or EMS PA to provide online medical direction to EMS personnel during all hours of operation of the facility;~~
- (B) ~~a written plan to provide physician backup to the MICN, EMS NP, or EMS PA providing online medical direction to EMS personnel;~~
- (C) ~~a mechanism for persons providing online medical direction to provide feedback to the EMS Peer Review Committee; and~~
- (D) ~~a written plan to provide orientation and education regarding treatment protocols for those individuals providing online medical direction;~~
- all EMS Providers operating within the EMS System;
- (11) ~~a written plan to ensure that each facility that routinely receives patients and also offers clinical education for EMS personnel provides~~
- ~~orientation and education to all preceptors regarding requirements of the EMS System;~~
- (12) ~~a written plan for providing emergency vehicle operation education for system personnel who operate emergency vehicles;~~
- (13)(10) ~~an EMS communication system that provides for:~~
- (A) ~~public access using the emergency telephone number 9-1-1 within the public dial telephone network as the primary method for the public to request emergency assistance. This number shall be connected to the emergency communications center or Public Safety Answering Point (PSAP) PSAP with immediate assistance available such that no caller will be instructed to hang up the telephone and dial another telephone number. A person calling for emergency assistance shall ~~never~~ not be required to speak with more than two persons to request emergency medical assistance;~~
- (B) ~~an emergency communications system operated by public safety telecommunicators with training in the management of calls for medical assistance available 24 hours per day;~~
- (C) ~~dispatch of the most appropriate emergency medical response unit or units to any caller's request for assistance. The dispatch of all response vehicles shall be in accordance with an official ~~written~~ documented EMS System plan for the management and deployment of response vehicles including requests for mutual aid; and~~
- (D) ~~two-way radio voice communications from within the defined service area to the emergency communications center or PSAP and to facilities where patients are routinely transported. The emergency communications system shall maintain all required ~~Federal Communications Commission (FCC) FCC~~ radio licenses or ~~authorizations required;~~ authorizations;~~
- (14)(11) ~~a written plan written policies and procedures for addressing the use of Specialty Care Transport Programs SCTP and Air Medical Programs within the system;~~
- (15)(12) ~~a written continuing education ~~plan~~ program for all credentialed EMS ~~personnel~~ personnel, under the direction of a System Continuing Education Coordinator, developed and modified based on feedback from system EMS~~

Care data, review, and evaluation of patient outcomes and quality management peer reviews, that follows the guidelines of the:

- (A) "US DOT NHTSA First Responder Refresher: National Standard Curriculum" for MR personnel;
- (B) US DOT NHTSA EMT-Basic Refresher: National Standard Curriculum" for EMT personnel;
- (C) "EMT-P and EMT-I Continuing Education National Guidelines" for EMT-I and EMT-P personnel; and
- (D) "US DOT NHTSA Emergency Medical Dispatcher: National Standard Curriculum" for EMD personnel.

These documents are incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. These documents are available from NHTSA, 400 7th Street, SW, Washington, D.C. 20590, at no cost; and

~~(16) a written plan addressing the orientation of MICN, EMS NP, or EMS PA used in the system. The orientation program shall include the following:~~

- ~~(A) a discussion of all EMS System treatment protocols and procedures;~~
- ~~(B) an explanation of the specific scope of practice for credentialed EMS personnel, as authorized by the approved EMS System treatment protocols as required by Rule .0405 of this Chapter;~~
- ~~(C) a discussion of all practice settings within the EMS System and how scope of practice may vary in each setting;~~
- ~~(D) a mechanism to assess the student's ability to effectively use EMS System communications equipment including hospital and prehospital devices, EMS communication protocols, and communications contingency plans as related to on-line medical direction; and~~
- ~~(E) the successful completion of a scope of practice evaluation administered under the direction of the medical director.~~

(13) written policies and procedures to address management of the EMS System that includes:

- (A) triage and transport of all acutely ill and injured patients with time-dependent or other specialized care issues including but not limited to trauma, stroke, STEMI, burn, and pediatric patients that may require the by-pass of other licensed health care

facilities and which are based upon the expanded clinical capabilities of the selected healthcare facilities;

- (B) triage and transport of patients to facilities outside of the system;
- (C) arrangements for transporting patients to appropriate facilities when diversion or bypass plans are activated;
- (D) reporting, monitoring, and establishing standards for system response times using data provided by the OEMS;
- (E) weekly updating of the SMARTT EMS Provider information;
- (F) a disaster plan; and
- (G) a mass-gathering plan.

(14) affiliation with the trauma RAC as required by Rule .1101(b) of this Subchapter; and

(15) medical oversight as required by Section .0400 of this Subchapter.

(b) An application to establish an EMS System shall be submitted by the county to the OEMS for review. When the system is comprised of more than one county, only one application shall be submitted. The proposal shall demonstrate that the system meets the requirements in Paragraph (a) of this Rule. System approval shall be granted for a period of six years. Systems shall apply to OEMS for reapproval.

Authority G.S. 131E-155(1),(6),(8),(9),(15); 143-508(b),(d)(1),(d)(2),(d)(3),(d)(5),(d)(8),(d)(9),(d)(10),(d)(13); 143-509(1),(3),(4),(5); 143-517; 143-518;

SECTION .0200 – EMS SYSTEMS

10A NCAC 13P .0202 MODEL EMS SYSTEMS

~~(a) Some EMS Systems may choose to move beyond the minimum requirements in Rule .0201 of this Section and receive designation from the OEMS as a Model EMS System. To receive this designation, an EMS System shall document that, in addition to the system requirements in Rule .0201 of this Section, the following criteria have been met: The OEMS shall accept applications from July 1 through July 31 of each year from EMS Systems that desire to seek designation as a Model EMS System. EMS System performance measurement shall be based on the results, and a designation of Model EMS System will be given by the OEMS to those EMS systems, which meet or exceed the following seven performance indicators as described:~~

- ~~(1) a uniform level of care throughout the system available 24 hours per day; Six EMS Performance Improvement Toolkits as defined in Rule .0102(22) of this Subchapter as follows:~~
 - (A) EMS System Response Toolkit;
 - (B) EMS Acute Trauma Care Toolkit;
 - (C) EMS Cardiac Arrest Care Toolkit;
 - (D) EMS Acute Cardiac Care (STEMI) Toolkit;

- (E) EMS Acute Stroke Care Toolkit;
- (F) EMS Acute Pediatric Care Toolkit;
- and
- (2) EMD performance data.
- (2) a plan for medical oversight that meets the requirements found in Section .0400 of this Subchapter. Specifically, Model EMS Systems shall meet the additional requirements for medical director and written treatment protocols as defined in Rules .0401(1)(b) and .0405(a)(2) of this Subchapter;
- (3) a mechanism to collect and electronically submit to the OEMS data that use the EMS data set and data dictionary as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost;
- (4) a written plan to address management of the EMS System to include:
 - (A) triage of patients to appropriate facilities;
 - (B) transport of patients to facilities outside of the system;
 - (C) arrangements for transporting patients to appropriate facilities when diversion or bypass plans are activated;
 - (D) a mechanism for reporting, monitoring, and establishing standards for system response times;
 - (E) a disaster plan; and
 - (F) a mass gathering plan;
- (5) a written continuing education plan for EMS personnel, under the direction of the System Continuing Education Coordinator, developed and modified based on feedback from system data, review, and evaluation of patient outcomes and quality management reviews;
- (6) a written plan to assure participation in clinical and field internship educational components for all EMS personnel;
- (7) operational protocols for the management of equipment, supplies and medications. These protocols shall include a methodology:
 - (A) to assure that each vehicle contains the required equipment and supplies on each response;
 - (B) for cleaning and maintaining the equipment and vehicles; and
 - (C) to assure that supplies and medications are not used beyond the expiration date and stored in a temperature controlled atmosphere

- according to manufacturer's specifications;
- (8) a written plan for the systematic and periodic inspection, repair and maintenance of all vehicles used in the system;
- (9) a written plan addressing the role of the EMS System in the areas of public education, injury prevention, and community health;
- (10) affiliation with at least one trauma Regional Advisory Committee; and
- (11) a system wide communication system that meets the requirements of Paragraph (a)(13) of Rule .0201 of this Section, and in addition:
 - (A) operates an EMD program; and
 - (B) has an operational E-911 system.

(b) EMS Systems holding current accreditation by a national accreditation agency may use this as documentation of completion of the equivalent requirements outlined in this Rule. The date range of the data analyzed within the EMS performance indicators is the first six months of the calendar year.

(c) To receive Model EMS System designation, the EMS System must be performing in the top 20 percent of their EMS peer group as defined in Rule .0102(23) of this Subchapter in at least four of the seven EMS performance improvement indicators.

(e)(d) The county EMS System shall submit an application for designation as a Model EMS System to the OEMS for review. When the system is comprised of more than one county, only one application shall be submitted. The application shall demonstrate that the system meets the standards found in Paragraph (a) of this Rule. Designation as a Model EMS System shall be awarded for a period of to coincide with the expiration date of the current system approval, not to exceed six years. Systems shall apply to OEMS for model system redesignation.

Authority G.S. 143-508(b); 143-508(d)(1),(d)(3),(d)(5),(d)(8),(d)(9),(d)(10),(d)(13); 143-509(1),(3),(4),(5).

10A NCAC 13P .0204 EMS PROVIDER LICENSE REQUIREMENTS

(a) Any firm, corporation, agency, organization or association that provides emergency medical services as its primary responsibility shall be licensed as an EMS Provider by meeting and continuously maintaining the following criteria:

- (1) Be affiliated with an each EMS System; System where there is to be a physical base of operation or where the EMS Provider will provide point-to-point patient transport within the system;
- (2) Present an application for a permit for any ambulance that will be in service as required by G.S. 131E-156;
- (3) Submit a written plan detailing how the EMS Provider will furnish credentialed personnel;
- (4) Where there is a are franchise ordinance ordinances pursuant to G.S. 153A-250 in effect that covers cover the proposed service

~~area, be areas of each EMS system of operation, show the affiliation with each EMS System, as required by Subparagraph (a)(1) of this Rule, by being granted a current franchise to operate, or present written documentation of impending receipt of a franchise, from the county; and each county. In counties where there is no franchise ordinance in effect, present a signature from each EMS System representative authorizing the EMS Provider to affiliate as required by Subparagraph (a)(1) of this Rule;~~

(5) ~~Present a written plan and method for recording Provide systematic, periodic inspection, repair, cleaning, and routine maintenance of all EMS responding vehicles. vehicles and maintain records available for inspection by the OEMS which verify compliance with this Rule;~~

(6) ~~Collect and within 24 hours electronically submit to the OEMS EMS Care data that uses the EMS data set and data dictionary as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost.~~

(7) ~~Develop and implement documented operational protocols for the management of equipment, supplies and medications and maintain records available for inspection by the OEMS which verify compliance with this Subparagraph. These protocols shall include a methodology:~~

~~(A) to assure that each vehicle contains the required equipment and supplies on each response;~~

~~(B) for cleaning and maintaining the equipment and vehicles; and~~

~~(C) to assure that supplies and medications are not used beyond the expiration date and stored in a temperature controlled atmosphere according to manufacturer's specifications.~~

~~(b) In addition to the general requirements detailed in Paragraph (a) of this Rule, if providing fixed-wing air medical services, affiliation with a hospital is required to ensure the provision of peer review, medical director oversight and treatment protocol maintenance.~~

~~(c) In addition to the general requirements detailed in Paragraph (a) of this Rule, if providing rotary-wing air medical services, affiliation with a Level I or Level II Trauma Center designated by the OEMS is required to ensure the provision of peer review, medical director oversight and treatment protocol maintenance. Due to the geographical barriers unique to the County of Dare,~~

~~the Medical Care Commission exempts the Dare County EMS System from this Paragraph.~~

~~(b)(d) An EMS Provider may renew its license by presenting documentation to the OEMS that the Provider meets the criteria found in Paragraph (a) Paragraphs (a) through (c) of this Rule.~~

Authority G.S. 131E-155.1(c), 143-508(d)(1),(d)(5).

10A NCAC 13P .0205 EMS PROVIDER LICENSE CONDITIONS

(a) Applications for an EMS Provider License must be received by the OEMS at least 30 days prior to the date that the EMS Provider proposes to initiate service. Applications for renewal of an EMS Provider License must be received by the OEMS at least 30 days prior to the expiration date of the current license.

(b) Only one license shall be issued to each EMS Provider. The Department shall issue a license to the EMS Provider following verification of compliance with applicable laws and rules.

(c) EMS Provider Licenses shall not be transferred.

(d) The license shall be posted in a prominent location accessible to public view at the primary business location of the EMS Provider.

~~(e) EMS Provider Licenses may not be issued by the Department to any firm, corporation, agency, organization or association that does not provide emergency medical services as part of its operation to the citizens of North Carolina.~~

Authority G.S. 131E-155.1(c).

10A NCAC 13P .0206 TERM OF EMS PROVIDER LICENSE

(a) EMS Provider Licenses shall remain in effect for six years unless any of the following occurs:

- (1) the Department imposes an administrative sanction which specifies license expiration;
- (2) the EMS provider Provider closes or goes out of business;
- (3) the EMS provider Provider changes name or ownership; or
- (4) substantial failure to continue to comply with Rule .0204 of this Section.

(b) When the name or ownership of the EMS provider Provider changes, an EMS Provider License application shall be submitted to the OEMS at least 30 days prior to the effective date of the change.

~~(c) For EMS providers maintaining affiliation with a Model EMS System, licenses may be renewed without requirement for submission of an application.~~

Authority G.S. 131E-155.1(c).

10A NCAC 13P .0207 GROUND AMBULANCE: VEHICLE AND EQUIPMENT REQUIREMENTS

(a) To be permitted as a Ground Ambulance, a vehicle shall have:

- (1) a patient compartment that meets the following interior dimensions:
 - (A) the length, measured on the floor from the back of the driver's

- compartment, driver's seat or partition to the inside edge of the rear loading doors, ~~shall be~~ is at least 102 inches; and
- (B) the height ~~shall be~~ is at least 48 inches over the patient area, measured from the approximate center of the floor, exclusive of cabinets or equipment;
- (2) patient care equipment and supplies as defined in the ~~treatment protocols for the system. Vehicles used by EMS providers that are not required to have treatment protocols shall have patient care equipment and supplies as defined in the~~ "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. The equipment and supplies shall be clean, in working order, and secured in the vehicle;
- (3) other equipment ~~to include:~~ that includes:
- (A) one fire extinguisher mounted in a quick release bracket that ~~shall either be is either~~ is either a dry chemical or all-purpose type and ~~have has~~ has a pressure gauge; and
- (B) the availability of one pediatric restraint device to safely transport pediatric patients and children under ~~20~~ 40 pounds in the patient compartment of the ambulance;
- (4) the name of the ~~ambulance provider~~ EMS Provider permanently displayed on each side of the vehicle;
- (5) reflective tape affixed to the vehicle such that there is reflectivity on all sides of the vehicle;
- (6) emergency warning lights and audible warning devices mounted on the vehicle as required by G.S. 20-125 in addition to those required by Federal Motor Vehicle Safety Standards. All warning devices shall function properly;
- (7) no structural or functional defects that may adversely affect the patient, the EMS personnel, or the safe operation of the vehicle;
- (8) an operational two-way radio ~~that shall:~~ that:
- (A) ~~be is~~ is mounted to the ambulance and installed for safe operation and controlled by the ambulance driver;
- (B) ~~have has~~ has sufficient range, radio frequencies, and capabilities to establish and maintain two-way voice radio communication from within the defined service area of the EMS System to the emergency communications center or ~~public~~ safety answering point (PSAP) PSAP designated to direct or dispatch the deployment of the ambulance;
- (C) ~~be is~~ is capable of establishing two-way voice radio communication from within the defined service area to the emergency department of the hospital(s) where patients are routinely transported and to facilities that provide on-line medical direction to EMS personnel;
- (D) ~~be is~~ is equipped with a radio control device mounted in the patient compartment capable of operation by the patient attendant to receive on-line medical direction; and
- (E) ~~be is~~ is licensed or authorized by the ~~Federal Communications Commission (FCC). FCC.~~ Federal Communications Commission (FCC). FCC.
- (9) permanently installed heating and air conditioning systems; and
- (10) a copy of the EMS System patient care treatment protocols.
- (b) Ground ambulances shall not use a radiotelephone device such as a cellular telephone as the only source of two-way radio voice communication.
- (c) ~~Other communication~~ Communication instruments or devices such as data radio, facsimile, computer, or telemetry radio shall be in addition to the mission dedicated dispatch radio and shall function independently from the mission dedicated radio.

Authority G.S. 131E-157(a); 143-508(d)(8).

10A NCAC 13P .0208 CONVALESCENT AMBULANCE: VEHICLE AND EQUIPMENT REQUIREMENTS

(a) To be permitted as a Convalescent Ambulance, a vehicle shall have:

- (1) a patient compartment that meets the following interior dimensions:
- (A) the length, measured on the floor from the back of the driver's compartment, driver's seat or partition to the inside edge of the rear loading doors, ~~shall be~~ is at least 102 inches; and
- (B) the height ~~shall be~~ is at least 48 inches over the patient area, measured from the approximate center of the floor, exclusive of cabinets or equipment;
- (2) patient care equipment and supplies as defined in the ~~treatment protocols for the system. Vehicles used by EMS providers that are not required to have treatment protocols shall have patient care equipment and supplies as defined in the~~ "North Carolina College of Emergency Physicians: Standards for Medical Oversight

and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. The equipment and supplies shall be clean, in working order, and secured in the vehicle;

- (3) other equipment ~~to include:~~ that includes:
 - (A) one fire extinguisher mounted in a quick release bracket that ~~shall either be is either~~ a dry chemical or all-purpose type and ~~have has~~ a pressure gauge; and
 - (B) the availability of one pediatric restraint device to safely transport pediatric patients and children under ~~20~~ 40 pounds in the patient compartment of the ~~ambulance.~~ ambulance;
 - (4) permanently installed heating and air conditioning systems; and
 - (5) a copy of the EMS System patient care treatment protocols.
- (b) Convalescent Ambulances shall:
- (1) not be equipped, permanently or temporarily, with any emergency warning devices, audible or visual, other than those required by Federal Motor Vehicle Safety Standards;
 - (2) have the name of the ~~ambulance provider~~ EMS Provider permanently displayed on each side of the vehicle;
 - (3) not have emergency medical symbols, such as the Star of Life, block design cross, or any other medical markings, symbols, or emblems, including the word "EMERGENCY," on the vehicle;
 - (4) have the words "CONVALESCENT AMBULANCE" lettered on both sides and on the rear of the vehicle body; and
 - (5) have reflective tape affixed to the vehicle such that there is reflectivity on all sides of the vehicle.
- (c) A two-way radio or radiotelephone device such as a cellular telephone shall be available to summon emergency assistance for a vehicle permitted as a convalescent ambulance.
- (d) The convalescent ambulance shall not have structural or functional defects that may adversely affect the patient, the EMS personnel, or the safe operation of the vehicle.

Authority G.S. 131E-157(a); 143-508(d)(8).

10A NCAC 13P .0209 AIR MEDICAL AMBULANCE: VEHICLE AND EQUIPMENT REQUIREMENTS

To be permitted as an Air Medical Ambulance, an aircraft shall meet the following requirements:

- (1) Configuration of the aircraft ~~interior shall~~ patient care compartment does not compromise the ability to provide appropriate

care or prevent ~~providers from~~ performing in-flight emergency patient care procedures ~~if necessary, as approved by the program medical director.~~

- (2) The aircraft ~~shall have~~ has on board patient care equipment and supplies as defined in the treatment protocols for the program. ~~Air Medical Ambulances used by EMS providers that are not required to have treatment protocols shall have patient care equipment and supplies as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. The equipment and supplies shall be clean, in working order, and secured in the vehicle.~~ aircraft.
- (3) There ~~shall be~~ is installed in the aircraft an internal voice communication system to allow for communication between the medical crew and flight crew.
- (4) ~~Due to the different configurations and space limitations of air medical ambulances, the~~ The medical director ~~shall designate~~ designates the combination of medical equipment specified in Item (2) of this Rule that is carried on a mission based on anticipated patient care needs.
- (5) ~~Air Medical Ambulances shall have the~~ The name of the ~~organization~~ EMS Provider is permanently displayed on each side of the aircraft.
- (6) ~~Air Medical Ambulances shall be~~ The aircraft is equipped with a two-way voice radio licensed by the ~~Federal Communications Commission~~ FCC capable of operation on any frequency required to allow communications with public safety agencies such as fire departments, police departments, ambulance and rescue units, hospitals, and local government agencies within the defined service area.
- (7) ~~All rotary wing aircraft permitted as an air medical ambulance shall have the following flight equipment operational in the aircraft: In addition to equipment required by applicable air worthiness certificates and Federal Aviation Regulations (FAA Part 91 or 135), any rotary-wing aircraft permitted has the following functioning equipment to help ensure the safety of crew members and ground personnel, patient comfort, and medical care:~~
 - (a) ~~two~~ three 360 channel VHF aircraft frequency transceivers;

- ~~(b) one VHF omnidirectional ranging (VOR) receiver;~~
- ~~(c) attitude indicators;~~
- ~~(d) one transponder with 4097 code, Mode C with altitude encoding;~~
- ~~(e) turn and slip indicator in the absence of three attitude indicators;~~
- ~~(f) current FAA approved navigational aids and charts for the area of operations;~~
- ~~(g) radar altimeter;~~
- ~~(h)(a) Satellite Global Navigational System; Global Positioning System;~~
- ~~(i) Emergency Locator Transmitter (ELT);~~
- ~~(j)(b) a remote control external search light; an external search light that can be operated from inside the aircraft;~~
- ~~(k)(c) a light which illuminates the tail rotor; a light that illuminates the tail rotor in nighttime conditions;~~
- ~~(l) a fire extinguisher; and~~
- ~~(m)(d) survival gear appropriate for the service area and the number of occupants; aircraft occupants;~~
- ~~(e) permanently installed heating and air conditioning systems; and~~
- ~~(f) the ability to carry at least a 220 pound patient load and transport at least 60 nautical miles or nearest level one Trauma Center non-stop without refueling.~~
- ~~(8) Any fixed wing aircraft issued a permit to operate as an air medical ambulance shall have a current "Instrument Flight Rules" certification.~~
- ~~(9)(8) The availability of one pediatric restraint device to safely transport pediatric patients and children under 20 40 pounds in the patient compartment of the air medical ambulance.~~
- ~~(10)(9) The Air Medical Ambulance shall not have aircraft has no structural or functional defects that may adversely affect the patient, or the EMS personnel, or the safe operation of the aircraft. personnel.~~
- (b) is covered to protect the patient and EMS personnel from the elements; and
- (c) has an opening of sufficient size to permit the safe loading and unloading of a person occupying a litter.
- (2) The watercraft shall have on board patient care equipment and supplies as defined in the ~~treatment protocols for the system. Water ambulances used by EMS providers that are not required to have treatment protocols shall have patient care equipment and supplies as defined in the~~ "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. The equipment and supplies shall be clean, in working order, and secured in the vehicle.
- (3) Water ambulances shall have the name of the ~~ambulance provider~~ EMS Provider permanently displayed on each side of the watercraft.
- (4) Water ambulances shall have a 360-degree beacon warning light in addition to warning devices required in Chapter 75A, Article 1, of the North Carolina General Statutes.
- (5) Water ambulances shall be equipped with:
 - (a) two floatable rigid long backboards with proper accessories for securing infant, pediatric, and adult patients and stabilization of the head and neck;
 - (b) one floatable litter with patient restraining straps and capable of being secured to the watercraft;
 - (c) one fire extinguisher mounted in a quick release bracket that ~~shall either be is either~~ a dry chemical or all-purpose type and ~~have~~ has a pressure gauge;
 - (d) lighted compass;
 - (e) radio navigational aids such as ADF (automatic directional finder), Satellite Global Navigational System, navigational radar, or other comparable radio equipment suited for water navigation;
 - (f) marine radio; and
 - (g) the availability of one pediatric restraint device to safely transport pediatric patients under ~~20~~ 40 pounds in the patient compartment of the ambulance;
- (6) The water ambulance shall not have structural or functional defects that may adversely affect

Authority G.S. 131E-157(a); 143-508(d)(8).

10A NCAC 13P .0210 WATER AMBULANCE: WATERCRAFT AND EQUIPMENT REQUIREMENTS

To be permitted as a Water Ambulance, a watercraft shall meet the following requirements:

- (1) The watercraft shall have a patient care area that:
 - (a) provides access to the head, torso, and lower extremities of the patient while providing sufficient working space to render patient care;

the patient, the EMS personnel, or the safe operation of the watercraft.

- (7) Water ambulances shall have a copy of the EMS System patient care treatment protocols.

Authority G.S. 131E-157(a); 143-508(d)(8).

10A NCAC 13P .0212 TERM OF AMBULANCE PERMIT

~~(a)~~ Ambulance Permits shall remain in effect for two years unless any of the following occurs:

- (1) The Department imposes an administrative sanction which specifies permit expiration;
- (2) The EMS ~~provider~~ Provider closes or goes out of business;
- (3) The EMS ~~provider~~ Provider changes name or ownership; or
- (4) ~~Substantial failure~~ Failure to comply with the applicable Paragraphs of Rules .0207, .0208, .0209, or .0210 of this Section.

~~(b) Ambulance Permits shall be renewed without OEMS inspection for those ambulances currently operated within a Model EMS System.~~

Authority G.S. 131E-157(a); 143-508(d)(8).

10A NCAC 13P .0213 EMS NONTRANSPORTING VEHICLE REQUIREMENTS

(a) To be permitted as an EMS Nontransporting Vehicle, a vehicle shall:

- (1) have patient care equipment and supplies as defined in the treatment protocols for the system. The equipment and supplies shall be clean, in working order, and secured in the vehicle.
- (2) have the name of the ~~organization~~ EMS Provider permanently displayed on each side of the vehicle.
- (3) have reflective tape affixed to the vehicle such that there is reflectivity on all sides of the vehicle.
- (4) have emergency warning lights and audible warning devices mounted on the vehicle as required by G.S. 20-125 in addition to those required by Federal Motor Vehicle Safety Standards. All warning devices shall function properly.
- (5) not have structural or functional defects that may adversely affect the EMS personnel or the safe operation of the vehicle.
- (6) have one fire extinguisher that ~~shall be~~ is a dry chemical or all-purpose type with a pressure gauge, mounted in a quick-release bracket.
- (7) have an operational two-way radio ~~that shall~~ that:

- (A) be is mounted to the EMS Nontransporting Vehicle and installed for safe operation and controlled by the driver;

- (B) have has sufficient range, radio frequencies, and capabilities to establish and maintain two-way voice radio communication from within the defined service area of the EMS System to the emergency communications center or ~~public safety answering point (PSAP)~~ PSAP designated to direct or dispatch the deployment of the ambulance;

- (C) be is capable of establishing two-way voice radio communication from within the defined service area to facilities that provide on-line medical direction to EMS personnel; and

- (D) be is licensed or authorized by the ~~Federal Communications Commission (FCC)~~ FCC.

- (8) not use a radiotelephone device such as a cellular telephone as the only source of two-way radio voice communication.

- (9) have a copy of the local EMS System patient care treatment protocols.

(b) ~~Other communication~~ Communication instruments or devices such as data radio, facsimile, computer, or telemetry radio shall be in addition to the mission dedicated dispatch radio and shall function independently from the mission-dedicated radio.

Authority G.S. 143-508(d)(8).

10A NCAC 13P .0214 EMS NONTRANSPORTING VEHICLE PERMIT CONDITIONS

(a) An EMS ~~provider~~ Provider shall apply to the OEMS for an EMS Nontransporting Vehicle Permit prior to placing such a vehicle in service.

(b) The Department shall issue a permit for a vehicle following verification of compliance with applicable laws and rules.

(c) Only one EMS Nontransporting Vehicle Permit shall be issued for each vehicle.

(d) EMS Nontransporting Vehicle Permits shall not be transferred.

(e) The EMS Nontransporting Vehicle Permit shall be posted as designated by the OEMS inspector.

(f) Vehicles that are not owned or leased by the EMS Provider are ineligible for permitting.

Authority G.S. 143-508(d)(8).

10A NCAC 13P .0215 TERM OF EMS NONTRANSPORTING VEHICLE PERMIT

~~(a)~~ EMS Nontransporting Vehicle Permits ~~shall~~ remain in effect ~~for two years in an EMS System or four years in a Model EMS System, years,~~ unless any of the following occurs:

- (1) The Department imposes an administrative sanction that specifies permit expiration;
- (2) The EMS ~~provider~~ Provider closes or goes out of business;

- (3) The EMS ~~provider~~ Provider changes name or ownership; or
- (4) ~~Substantial failure~~ Failure to comply with Rule .0213 of this Section.

~~(b) EMS Nontransporting Vehicle Permits shall be renewed without OEMS inspection for those vehicles currently operated within a Model EMS System.~~

Authority G.S. 143-508(d)(8).

SECTION .0300 – SPECIALTY CARE TRANSPORT PROGRAMS

10A NCAC 13P .0301 SPECIALTY CARE TRANSPORT PROGRAM CRITERIA

(a) ~~Programs~~ EMS Providers seeking designation to provide specialty care transports shall submit an application for program approval to the OEMS at least 60 days prior to field implementation. The application shall document that the program has:

- (1) ~~a defined service area;~~ area that identifies the specific transferring and receiving facilities in which the program is intended to service;
- (2) ~~a written policies and procedures implemented for medical oversight plan~~ meeting the requirements of Section .0400;
- (3) service continuously available on a 24 hour per day basis;
- (4) the capability to provide the following patient care skills and procedures:
 - (A) advanced airway techniques including rapid sequence induction, cricothyrotomy, and ventilator management, including continuous monitoring of the patient's oxygenation;
 - (B) insertion of femoral lines;
 - (C) maintaining invasive ~~monitoring~~ medical devices to include such as central venous pressure lines, arterial and venous catheters, arterial lines, intra-ventricular catheters, and epidural catheters; and
 - (D) interpreting 12-lead electrocardiograms;
- (5) a written continuing education ~~plan~~ program for EMS personnel, under the direction of the Specialty Care Transport Program Continuing Education Coordinator, developed and modified based on feedback from program data, review and evaluation of patient outcomes, and quality management ~~reviews.~~ review that follows the guidelines of the:
 - (A) "US DOT NHTSA EMT-Basic Refresher: National Standard Curriculum" for EMT personnel; and
 - (B) "EMT-P and EMT-I Continuing Education National Guidelines" for EMT-I and EMT-P personnel.

These documents are incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. These documents are available from NHTSA, 400 7th Street, SW, Washington, D.C. 20590, at no cost:

- (6) ~~a mechanism to collect and electronically submit to the OEMS data that uses the EMS data set and data dictionary as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. EMS Specialty Care Transport Programs shall comply with this requirement by July 1, 2004.~~ a communication system that will provide two-way voice communications for transmission of patient information to medical crew members anywhere in the service area of the program. The SCTP medical director shall verify that the communications system is satisfactory for on-line medical direction;
 - (7) medical crew members that have all completed training regarding:
 - (A) operation of the EMS communications system used in the program; and
 - (B) the medical and safety equipment specific to the vehicles used in the program. This training shall be conducted every six months;
 - (8) written operational protocols for the management of equipment, supplies and medications. These protocols include:
 - (A) a listing of all standard medical equipment, supplies, and medications for all vehicles used in the program based on the treatment protocols and approved by the medical director;
 - (B) a methodology to assure that each vehicle contains the required equipment, supplies and medications on each response; and
 - (9) written policies and procedures specifying how EMS Systems will dispatch and utilize the ambulances operated by the program.
- (b) ~~Applications for specialty care transport program approval shall document that the applicant meets the requirements for the specific program type or types applied for as specified in Rules .0302, .0303 or .0304 of this Section. When transporting patients, staffing for the vehicle used in the SCTP shall be approved by the SCTP medical director as medical crew members, using any of the following appropriate for the condition of the patient:~~
 - (1) EMT-Paramedic;

- (2) nurse practitioner;
- (3) physician;
- (4) physician assistant;
- (5) registered nurse; and
- (6) respiratory therapist.

(c) EMS Providers whose primary dedicated service is the provision of the patient care skills and procedures as detailed in Subparagraph (a)(4) of this Rule are exempt from the staffing requirements defined in G.S. 131E-158(a).

~~(e)~~(d) Specialty care transport program Care Transport Program approval shall be are valid for a period to coincide with the EMS Provider License, not to exceed six years. Programs shall apply to the OEMS for reapproval.

Authority G.S. 131E-158; 143-508(d)(1),(d)(8),(d)(9); 143-508(d)(13).

10A NCAC 13P .0302 AIR MEDICAL SPECIALTY CARE TRANSPORT PROGRAM CRITERIA FOR LICENSED EMS PROVIDERS USING ROTARY-WING AIRCRAFT

(a) ~~In addition to the general requirements of Specialty Care Transport Programs in Rule .0301 of this Section, Air Medical Programs using rotary-wing aircraft shall document that the program has:~~

- (1) Medical crew members that have all completed training regarding:
 - (A) Altitude physiology;
 - (B) The operation of the EMS communications system used in the program;
 - (C) In-flight emergencies specific to the aircraft used in the program; and
 - (D) Aircraft safety. This training shall be conducted every six months.
- (2) A Certificate of Need has been obtained from the Department when ~~applicable; applicable as required by law;~~
- (3) ~~A written plan~~ Written policies and procedures for transporting patients to appropriate facilities when diversion or bypass plans are activated;
- ~~(4) A written plan for providing emergency vehicle operation education for program personnel who operate ground emergency vehicles; and~~
- ~~(5)~~(4) A written Written policies and procedures specifying how EMS Systems will ~~request ground support ambulances dispatch and utilize aircraft~~ operated by the ~~program.~~ program;
- ~~(5)~~ Written triage protocols for trauma, stroke, STEMI, burn, and pediatric patients reviewed and approved by the OEMS medical director;
- ~~(6)~~ Written policies and procedures specifying how EMS Systems will receive the Specialty Care Transport Services offered under the program when the aircraft are unavailable for service;

- (7) Pilot-In-Command (PIC) that:
 - (A) Maintain instrument currency in accordance with FAR 61.57;
 - (B) Hold at least a commercial rotor-craft instrument rating;
 - (C) Have not less than 2,500 hours total rotor-wing flight time; and
- (8) A copy of the Specialty Care Transport Program patient care treatment protocols.

(b) ~~Air Medical Programs based outside of North Carolina that provide specialty care transports may be granted approval by the OEMS to operate in North Carolina by submitting an application for program approval. The application shall document that the program meets all criteria specified in Rules .0204 and .0301 of this Subchapter and Paragraph (a) of this Rule. All patient response, re-positioning and mission flight legs must be conducted under FAA part 135 regulations.~~

Authority G.S. 143-508(d)(1),(d)(3),(d)(13).

10A NCAC 13P .0303 GROUND SPECIALTY CARE TRANSPORT PROGRAMS

(a) ~~When transporting patients that have a medical need for one or more of the skills or procedures as defined for specialty care transport programs in .0301(a)(4) of this Section, staffing for the vehicle used in the ground specialty care transport program shall be at a level to ensure the capability to provide in the patient compartment, when the patient condition requires, two of the following personnel approved by the medical director as medical crew members:~~

- ~~(1) EMT Paramedic;~~
- ~~(2) nurse practitioner;~~
- ~~(3) physician~~
- ~~(4) physician assistant;~~
- ~~(5) registered nurse; and~~
- ~~(6) respiratory therapist.~~

(b) ~~When transporting patients that do not require specialty care transport skills or procedures, staffing for the vehicles used in the ground specialty care transport program shall be at a level to ensure compliance with G.S. 131E-158(a).~~

~~(c) In addition to the requirements of specialty care transport programs in Rule .0301 of this Section, ground programs providing specialty care transports shall document that the program has:~~

- ~~(1) a communication system that will provide two-way voice communications to medical crew members anywhere in the service area of the program. The medical director shall verify that the communications system is satisfactory for on-line medical direction;~~
- ~~(2) medical crew members that have all completed training regarding:~~
 - ~~(A) operation of the EMS communications system used in the program; and~~
 - ~~(B) the medical and safety equipment specific to the vehicles used in the program. This training shall be conducted every six months;~~

- (3) ~~operational protocols for the management of equipment, supplies and medications. These protocols shall include:~~
 - (A) ~~a standard equipment and supply listing for all ambulance vehicles used in the program. This listing shall meet or exceed the requirements for each category of ambulance used in the program as found in Rules .0207, .0208, .0209, and .0210 of this Subchapter;~~
 - (B) ~~a standard listing of medications for all ambulance and EMS nontransporting vehicles used in the system. This listing shall be based on the local treatment protocols and be approved by the medical director;~~
 - (C) ~~a methodology to assure that each vehicle contains the required equipment and supplies on each response;~~
 - (D) ~~a methodology for cleaning and maintaining the equipment and vehicles; and~~
 - (E) ~~a methodology for assuring that supplies and medications are not used beyond the expiration date and stored in a temperature controlled atmosphere according to manufacturer's specifications;~~
- (4) ~~a written plan for providing emergency vehicle operation education for program personnel who operate emergency vehicles; and~~
- (5) ~~a written plan specifying how EMS Systems will request ambulances operated by the program.~~

(d) ~~Ground Specialty Care Transport programs based outside of North Carolina may be granted approval by the OEMS to operate in North Carolina by submitting an application for program approval. The application shall document that the program meets all criteria specified in Rules .0204 and .0301 of this Subchapter and Paragraphs (a) and (b) of this Rule.~~

Authority G.S. 143-508(d)(1),(d)(8),(d)(9).

10A NCAC 13P .0304 HOSPITAL-AFFILIATED GROUND SPECIALTY CARE TRANSPORT PROGRAMS USED FOR INPATIENT TRANSPORTS

- (a) ~~Patients transported by Hospital affiliated Ground Specialty Care Transport Program shall:~~
 - (1) ~~Have a medical need for one or more of the skills or procedures as defined for Specialty Care Transport Programs as defined in .0301(a)(4); or~~
 - (2) ~~Be a patient of the hospital administering the program, or be scheduled for admission to or discharged from the hospital administering the program;~~

(b) ~~In addition to the general requirements of Specialty Care Transport Programs in Rule .0301 of this section, hospital-affiliated ground programs providing specialty care transports shall document that the program has:~~

- (1) ~~A communication system that will provide, at a minimum, two-way voice communications to medical crew members anywhere in the service area of the program. The medical director shall verify that the communications system is satisfactory for on-line medical direction.~~
- (2) ~~Medical crew members that have all completed training regarding:~~
 - (A) ~~Operation of the EMS communications system used in the program; and~~
 - (B) ~~The medical and safety equipment specific to the vehicles used in the program. This training shall be conducted every six months.~~
- (3) ~~Staffing at a level to ensure the capability to provide in the patient compartment, when the patient's condition requires, two of the following personnel approved by the medical director as medical crew members:~~
 - (A) ~~EMT Paramedic;~~
 - (B) ~~Nurse practitioner;~~
 - (C) ~~Physician;~~
 - (D) ~~Physician assistant;~~
 - (E) ~~Registered nurse; or~~
 - (F) ~~Respiratory therapist.~~
- (4) ~~Operational protocols for the management of equipment, supplies, and medications. These protocols shall include:~~
 - (A) ~~A standard equipment and supply listing for all ambulance vehicles used in the program. This listing shall meet or exceed the requirements for each category of ambulance used in the program as found in Rules .0207, .0208, .0209, and .0210 of this Subchapter;~~
 - (B) ~~A standard listing of medications for all ambulance and EMS nontransporting vehicles used in the program. This listing shall be based on the local treatment protocols and be approved by the medical director;~~
 - (C) ~~A methodology to assure that each vehicle contains the required equipment and supplies on each response~~
 - (D) ~~A methodology for cleaning and maintaining the equipment and vehicles; and~~
 - (E) ~~A methodology for assuring that supplies and medications are not used beyond the expiration date and stored in a temperature controlled~~

atmosphere according to manufacturer's specifications.

(5) A written plan for providing emergency vehicle operation education for program personnel who operate emergency vehicles.

(6) A written plan specifying how EMS systems will request ambulances operated by the program.

(e) Hospital-Affiliated Ground Specialty Care Transport Programs based outside of North Carolina may be granted approval by the OEMS to operate in North Carolina by submitting an application for program approval. The application shall document that the program meets all criteria specified in Rules .0204 and .0301 of this Subchapter and Paragraphs (a) and (b) of this Rule.

Authority G.S. 143-508(d)(1),(d)(8),(d)(9).

10A NCAC 13P .0305 AIR MEDICAL SPECIALTY CARE TRANSPORT PROGRAM CRITERIA FOR LICENSED EMS PROVIDERS USING FIXED-WING AIRCRAFT

(a) In addition to the general requirements of Specialty Care Transport Programs in Rule .0301 of this Section, Air Medical Programs using fixed-wing aircraft shall document that:

(1) Medical crew members have all completed training regarding:

(A) Altitude physiology;

(B) The operation of the EMS communications system used in the program;

(C) In-flight emergencies specific to the aircraft used in the program; and

(D) Aircraft safety. This training shall be conducted every six months.

(2) All aircraft are operated by a two-pilot crew. Pilot-In-Command (PIC) shall be type rated in licensed aircraft and Airline Transport Pilot (ATP) certified. If the aircraft is over 12,500 pounds, both PIC and Second-In Command shall be type-rated.

(3) A Certificate of Need has been obtained from the Department when applicable as required by law;

(4) Written policies and procedures specifying how ground ambulance services are utilized by the program for patient delivery and receipt on each end of the transport; and

(5) There is a copy of the Specialty Care Treatment Program patient care protocols.

(b) All patient, re-positioning, and mission flight legs must be conducted under FAA part 135 regulations.

Authority G.S. 143-508(d)(1),(d)(3).

SECTION .0400 - MEDICAL OVERSIGHT

10A NCAC 13P .0401 COMPONENTS OF MEDICAL OVERSIGHT FOR EMS SYSTEMS

Each EMS System operating within the scope of practice for EMD, EMT I, or EMT P or seeking designation as a Model EMS System shall have the following components in place to assure medical oversight of the system:

(1) a medical director for adult and pediatric patients appointed, either directly or by documented delegation, by the county responsible for establishing the EMS System. Systems may elect to appoint one or more assistant medical directors.

(a) For EMS Systems, the medical director and assistant medical directors shall meet the criteria as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and

(b) For Model EMS Systems, the medical director and assistant medical directors shall also meet the additional criteria for medical directors of Model EMS Systems as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost;

(2) written treatment protocols for adult and pediatric patients for use by EMS personnel;

(3) for systems providing EMD service, an EMDPRS approved by the medical director;

(4) an EMS Peer Review Committee; and

(5) written procedures for use by EMS personnel to obtain on-line medical direction. On-line medical direction shall:

(a) be restricted to medical orders that fall within the scope of practice of the EMS personnel and within the scope of approved system treatment protocols;

(b) be provided only by a physician, MICN, EMS-NP, or EMS-PA. Only physicians may deviate from written treatment protocols; and

- (c) be provided by a system of two-way voice communication that can be maintained throughout the treatment and disposition of the patient.

- (3) EMD programs, the establishment, approval, and annual updating of the EMDPRS;
- (4) medical supervision of the selection, system orientation, continuing education and performance of all EMS personnel;
- (5) medical supervision of a scope of practice performance evaluation for all EMS personnel in the system based on the treatment protocols for the system;
- (6) the medical review of the care provided to patients;
- (7) providing guidance regarding decisions about the equipment, medical supplies, and medications that will be carried on all ambulances ~~or~~ and EMS nontransporting vehicles ~~within the scope of practice of EMT-I or EMT-P; and operating within the system;~~
- (8) keeping the care provided up to date with current medical ~~practice.~~ practice; and

- (9) developing and implementing an orientation plan for all hospitals within the EMS system that use MICN, EMS-NP, or EMS-PA personnel to provide on-line medical direction to EMS personnel, which includes at a minimum:

- (A) a discussion of all EMS System treatment protocols and procedures;
- (B) an explanation of the specific scope of practice for credentialed EMS personnel, as authorized by the approved EMS System treatment protocols as required by Rule .0405 of this Section;
- (C) a discussion of all practice settings within the EMS System and how scope of practice may vary in each setting;
- (D) a mechanism to assess the ability to effectively use EMS System communications equipment including hospital and prehospital devices, EMS communication protocols, and communications contingency plans as related to on-line medical direction; and
- (E) the successful completion of a scope of practice performance evaluation which verifies competency in Parts (A) through (D) of this Subparagraph and which is administered under the direction of the medical director.

Authority G.S. 143-508(b); 143-509(12).

10A NCAC 13P .0402 COMPONENTS OF MEDICAL OVERSIGHT FOR SPECIALTY CARE TRANSPORT PROGRAMS

Each Specialty Care Transport Program shall have the following components in place to assure Medical Oversight of the system:

- (1) a medical director. The administration of the ~~Specialty Care Transport Program SCTP~~ shall appoint a medical director following the criteria for medical directors of Specialty Care Transport Programs as defined by the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. The program administration may elect to appoint one or more assistant medical directors;
- (2) treatment protocols for adult and pediatric patients for use by medical crew members;
- (3) an EMS Peer Review Committee; and
- (4) a written protocol for use by medical crew members to obtain on-line medical direction.

On-line medical direction shall:

- (a) be restricted to medical orders that fall within the scope of practice of the medical crew members and within the scope of approved program treatment protocols;
- (b) be provided only by a physician, MICN, EMS-NP, or EMS-PA. Only physicians may deviate from written treatment protocols; and
- (c) be provided by a system of two-way voice communication that can be maintained throughout the treatment and disposition of the patient.

Authority G.S. 143-508(b); 143-509(12).

10A NCAC 13P .0403 RESPONSIBILITIES OF THE MEDICAL DIRECTOR FOR EMS SYSTEMS

(a) The Medical Director for an EMS System ~~shall be~~ is responsible for the following:

- (1) ~~ensure~~ ensuring that medical control is available 24 hours a day;
- (2) the establishment, approval and annual updating of adult and pediatric treatment protocols;

(b) Any tasks related to Paragraph (a) of this Rule ~~may be~~ are completed, through written delegation, by assisting physicians, physician assistants, nurse practitioners, registered nurses, EMD's, or EMT-P's.

(c) The Medical Director may suspend temporarily, pending due process review, any EMS personnel from further participation in the EMS System when it is determined the activities or medical care rendered by such personnel may be detrimental to the care

of the patient, constitute unprofessional ~~behavior, conduct,~~ or result in non-compliance with credentialing requirements.

Authority G.S. 143-508(b), 143-508(d)(3),(d)(7); 143-509(12).

10A NCAC 13P .0404 RESPONSIBILITIES OF THE MEDICAL DIRECTOR FOR SPECIALTY CARE TRANSPORT PROGRAMS

(a) The medical director for a Specialty Care Transport Program shall be responsible for the following:

- (1) The establishment, approval, and periodic updating of adult and pediatric treatment protocols;
- (2) Medical supervision of the selection, program orientation, continuing education, and performance of medical crew members;
- (3) Medical supervision of a scope of practice performance evaluation for all medical crew members in the program based on the treatment protocols for the program;
- (4) The medical review of the care provided to patients;
- (5) Keeping the care provided up to date with current medical practice; and
- (6) In air medical programs, determination and specification of the medical equipment required in Item (2) of Rule .0209 of this Subchapter that is carried on a mission based on anticipated patient care needs.

(b) Any tasks related to Paragraph (a) of this Rule may be completed, through ~~clearly established~~ written delegation, by assisting physicians, physician assistants, nurse practitioners, registered nurses, or medical crew members.

(c) The medical director ~~shall have the authority to~~ may suspend temporarily, pending due process review, any medical crew members from further participation in the Specialty Care Transport Program when it is determined the activities or medical care rendered by such personnel may be detrimental to the care of the patient, constitute unprofessional ~~behavior, conduct,~~ or result in non-compliance with credentialing requirements.

Authority G.S. 143-508(b); 143-509(12).

10A NCAC 13P .0405 REQUIREMENTS FOR ADULT AND PEDIATRIC TREATMENT PROTOCOLS FOR EMS SYSTEMS

(a) ~~Written Treatment Protocols:~~ Protocols used in EMS Systems shall:

- (1) ~~Used in EMS Systems shall meet~~ Be adopted in their original form from the standard adult and pediatric treatment protocols as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the

OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and

~~(2) Used in Model EMS Systems shall also meet the standard treatment protocols for Model EMS Systems as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and~~

~~(3)(2) Shall not~~ Not contain medical procedures, medications, or intravenous fluids that exceed the scope of practice defined by the North Carolina Medical Board pursuant to G.S. 143-514 for the level of care offered in the EMS System and any other applicable health care licensing board.

(b) ~~Treatment~~ Individual adult and pediatric treatment protocols developed may be modified locally by EMS Systems if there is a change in a specific protocol which will optimize care within the local community which adds additional medications or medical procedures, or rearranges the order of care provided in the protocol contained within the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection" shall meet the requirements of as described in Paragraph (a) of this Rule, shall be reviewed annually and any change in the treatment protocols shall be submitted to the OEMS Medical Director for review and approval at least 30 days prior to the implementation of the change. Rule. Additional written Treatment Protocols may be developed by any EMS System in addition to the required protocols contained within the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection" as required by the EMS System. All North Carolina College of Emergency Physicians Policies and Procedures must be included and may be modified at the local level. All EMS System Treatment Protocols which have been added or changed by the EMS System shall be submitted to the OEMS Medical Director for review and approval at least 30 days prior to the implementation of the change.

Authority G.S. 143-508(b); 143-509(12).

10A NCAC 13P .0406 REQUIREMENTS FOR ADULT AND PEDIATRIC TREATMENT PROTOCOLS FOR SPECIALTY CARE TRANSPORT PROGRAMS

(a) ~~Treatment~~ Adult and pediatric treatment protocols used by medical crew members within a Specialty Care Transport Program shall:

- (1) be approved by the OEMS Medical Director and incorporate all skills, medications, equipment, and supplies for Specialty Care Transport Programs as defined by the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in

accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and

- (2) not contain medical procedures, medications, or intravenous fluids that exceed the scope of practice of the medical crew members.

(b) ~~Treatment~~ All adult and pediatric treatment protocols shall be reviewed annually, and any change in the treatment protocols shall be submitted to the OEMS Medical Director for review and approval at least 30 days prior to the implementation of the change.

Authority G.S. 143-508(b); 143-509(12).

10A NCAC 13P .0408 EMS PEER REVIEW COMMITTEE FOR EMS SYSTEMS

(a) The EMS Peer Review Committee for an EMS System shall:

- (1) be composed of membership as defined in G.S. 131E-155(6b).
- (2) appoint a physician as chairperson;
- (3) meet at least quarterly;
- (4) analyze use, at a minimum, information gained from the analysis of system data submitted to the OEMS to evaluate the ongoing quality of patient care and medical direction within the system;
- (5) use use, at a minimum, information gained from the analysis of system data analysis submitted to the OEMS to make recommendations regarding the content of continuing education programs for all EMS personnel; personnel functioning within the EMS system;
- (6) review adult and pediatric treatment protocols of the EMS System and make recommendations to the medical director for changes;
- (7) establish and implement a written procedure to guarantee due process reviews for EMS personnel temporarily suspended by the medical director; ~~and~~
- (8) record and maintain minutes of committee meetings throughout the approval period of the EMS ~~System~~; System;
- (9) establish and implement EMS system performance improvement guidelines that meet or exceed the statewide standard as defined by the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and
- (10) adopt written guidelines that address:

- (a) structure of committee membership;

- (b) appointment of committee officers;
- (c) appointment of committee members;
- (d) length of terms of committee members;
- (e) frequency of attendance of committee members;
- (f) establishment of a quorum for conducting business; and
- (g) confidentiality of medical records and personnel issues.

~~(b) The EMS Peer Review Committee shall adopt written guidelines that address:~~

- ~~(1) structure of committee membership;~~
- ~~(2) appointment of committee officers;~~
- ~~(3) appointment of committee members;~~
- ~~(4) length of terms of committee members;~~
- ~~(5) frequency of attendance of committee members;~~
- ~~(6) establishment of a quorum for conducting business; and~~
- ~~(7) confidentiality of medical records and personnel issues.~~

Authority G.S. 143-508(b); 143-509(12).

10A NCAC 13P .0409 EMS PEER REVIEW COMMITTEE FOR SPECIALTY CARE TRANSPORT PROGRAMS

(a) The EMS Peer Review Committee for a Specialty Care Transport Program shall:

- (1) be composed of membership as defined in G.S. 131E-155(6b);
- (2) appoint a physician as chairperson;
- (3) meet at least quarterly;
- (4) analyze program data to evaluate the ongoing quality of patient care and medical direction within the program;
- (5) use information gained from program data analysis to make recommendations regarding the content of continuing education programs for medical crew members;
- (6) review adult and pediatric treatment protocols of the Specialty Care Transport Programs and make recommendations to the medical director for changes;
- (7) establish and implement a written procedure to guarantee due process reviews for medical crew members temporarily suspended by the medical director; ~~and~~
- (8) record and maintain minutes of committee meetings throughout the approval period of the Specialty Care Transport ~~Program~~; Program;
- (9) establish and implement EMS system performance improvement guidelines that meet or exceed the statewide standard as defined by the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-

- 21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and
- (10) adopt written guidelines that address:
- (a) structure of committee membership;
 - (b) appointment of committee officers;
 - (c) appointment of committee members;
 - (d) length of terms of committee members;
 - (e) frequency of attendance of committee members;
 - (f) establishment of a quorum for conducting business; and
 - (g) confidentiality of medical records and personnel issues.

- (b) ~~Each EMS Peer Review Committee For Specialty Care Transport Programs shall adopt written guidelines that address:~~
- ~~(1) structure of committee membership;~~
 - ~~(2) appointment of committee officers;~~
 - ~~(3) appointment of committee members;~~
 - ~~(4) length of terms of committee members;~~
 - ~~(5) frequency of attendance of committee members;~~
 - ~~(6) establishment of a quorum for conducting business; and~~
 - ~~(7) confidentiality of medical records and personnel issues.~~

Authority G.S. 143-508(b); 143-509(12).

SECTION .0500 – EMS PERSONNEL

10A NCAC 13P .0501 EDUCATIONAL PROGRAMS

- (a) An educational program approved by the OEMS to qualify credentialed EMS personnel to perform within their scope of practice shall be offered by an EMS educational institution.
- (b) Educational programs approved to qualify EMS personnel for credentialing shall meet the educational objectives of the:
 - (1) "US DOT NHTSA First Responder: National Standard Curriculum" for MR personnel;
 - (2) "US DOT NHTSA EMT-Basic: National Standard Curriculum" for EMT personnel;
 - (3) "US DOT NHTSA EMT-Paramedic: National Standard Curriculum" for EMT-I and EMT-P personnel. For EMT-I personnel, the educational objectives shall be limited to the following:
 - (A) Module 1: Preparatory

SECTION	TITLE	LESSON OBJECTIVES
1-1	EMS Systems / Roles & Responsibilities	1-1.1 – 1-1.46
1-2	The Well Being of the Paramedic	1-2.1 – 1-2.46
1-4	Medical / Legal Issues	1-4.1 – 1-4.35
1-5	Ethics	1-5.1 – 1-5.11
1-6	General Principles of Pathophysiology	1-6.3; 1-6.5 – 1-6.9; 1-6.13 – 1-6.16; 1-6.19 – 1-6.25; 1-6.27 – 1-6.31
1-7	Pharmacology	1-7.1 – 1-7.31
1-8	Venous Access / Medication Administration	1-8.1 – 1-8.8; 1-8.10 – 1-8.17; 1-8.19 – 1-8.34; 1-8.36 – 1-8.38; 1-8.40 – 1-8.43
1-9	Therapeutic Communications	1-9.1 – 1-9.21

- (B) Module 2: Airway

SECTION	TITLE	LESSON OBJECTIVES
2-1	Airway Management & Ventilation	2-1.1 – 2-1.10; 2-1.12 – 2-1.40; 2-1.42 – 2-1.64; 2-1.69; 2-1.73 – 2-1.89; 2-1.93 – 2-1.103;

		2-1.104a-d; 2-1.105 – 2-1.106; 2-1.108
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(C) Module 3: Patient Assessment

SECTION	TITLE	LESSON OBJECTIVES
3-2	Techniques of Physical Examination	3-2.1 – 3-2.88

(D) Module 4: Trauma

SECTION	TITLE	LESSON OBJECTIVES
4-2	Hemorrhage and Shock	4-2.1 – 4-2.54
4-4	Burns	4-4.25 – 4-4.30; 4-4.80 – 4-4.81

(E) Module 5: Medical

SECTION	TITLE	LESSON OBJECTIVES
5-1	Pulmonary	5-1.2 – 5-1.7; 5-1.10bcdefjk – 5-1.14
5-2	Cardiology	5-2.1 – 5-2.5; 5-2.8; 5-2.11 – 5-2.12; 5-2.14; 5-2.29 – 5-2.30; 5-2.53; 5-2.65 – 5-2.68; 5-2.70; 5-2.72 – 5-2.73; 5-2.75 – 5-2.77; 5-2.79 – 5-2.81; 5-2.84 – 5-2.89; 5-2.91 – 5-2.95; 5-2.121 – 5-2.125; 5-2.128 – 5-2.133; 5-2.150; 5-2.159; 5-2.162; 5-2.165; 5-2.168; 5-2.179 – 5-2.180; 5-2.184; 5-2.193 – 5-2.194; 5-2.201; 5-2.205ab; 5-2.206 – 5-2.207
5-3	Neurology	5-3.11 – 5-3.17; 5-3.82 – 5-3.83
5-4	Endocrinology	5-4.8 – 5-4.48
5-5	Allergies and Anaphylaxis	5-5.1 – 5-5.19
5-8	Toxicology	5-8.40 – 5-8.56; 5-8.62

(F) Module 7: Assessment Based Management

SECTION	TITLE	LESSON
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		OBJECTIVES
7-1	Assessment Based Management	7-1.1 – 7-1.19 (objectives 7-1.12 and 7-1.19 should include only abefhklo)

- (4) "US DOT NHTSA Emergency Medical Dispatcher: National Standard Curriculum" for EMD personnel; ~~or~~ and
- (5) "National Guidelines for Educating EMS Instructors" for EMS Instructors.

These documents are incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. These documents are available from NHTSA, 400 7th Street, SW, Washington, D.C. 20590, at no cost.

(c) Educational programs approved to qualify EMS personnel for renewal of credentials shall follow the guidelines of the:

- (1) "US DOT NHTSA First Responder Refresher: National Standard Curriculum" for MR personnel;
- (2) "US DOT NHTSA EMT-Basic Refresher: National Standard Curriculum" for EMT personnel;
- (3) "EMT-P and EMT-I Continuing Education National Guidelines" for EMT-I and EMT-P personnel; ~~or~~
- (4) "US DOT NHTSA Emergency Medical Dispatcher: National Standard Curriculum" for EMD ~~personnel~~; personnel;
- (5) "US DOT NHTSA EMT-Intermediate Refresher: National Standard Curriculum" for EMT-I personnel; and
- (6) "US DOT NHTSA EMT-Paramedic Refresher: National Standard Curriculum" for EMT-P personnel.

These documents are incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. These documents are available from NHTSA, 400 7th Street, SW, Washington, D.C. 20590, at no cost.

Authority G.S. 143-508(d)(3), (d)(4); 143-514.

10A NCAC 13P .0502 INITIAL CREDENTIALING REQUIREMENTS FOR MR, EMT, EMT-I, EMT-P, AND EMD

(a) ~~In order to be credentialed as an MR, EMT, EMT-I, EMT-P, and EMD applicants shall meet the following criteria within one year of the completion date of the approved educational program for their level of application: or EMD, individuals shall:~~

- (1) Be at least 18 years of age.
- (2) Successfully complete an approved educational program for their level of application. If the educational program was completed over one year prior to application, applicants shall submit evidence of completion of continuing education during the past year. This continuing education shall be based on the educational objectives in Rule .0501(c) of this Section consistent with their level of application and approved by the OEMS.

~~(3)~~ (4) Successfully complete a scope of practice performance evaluation which uses performance measures based on the cognitive, psychomotor, and affective educational objectives in Rule .0501(b) of this Section and which are consistent with their level of application and approved by the OEMS. This evaluation shall be conducted under the direction of the educational medical advisor or a Level II EMS Instructor credentialed at or above the level of application and designated by the educational medical ~~advisor~~ advisor, and may be included within the educational program or conducted separately. If the evaluation was completed over one year prior to application, applicants must repeat the evaluation and submit evidence of successful completion during the previous year.

~~(3)~~(4) Successfully complete a written examination administered by the OEMS or equivalent; an equivalent written examination as approved by the OEMS. Applicants who fail the written EMT examination but achieve a minimum score of 70% on the medical responder subset contained within the examination may be credentialed as medical responders. If the educational program was completed over one year prior to application, applicants shall submit evidence of completion of continuing education during the past year. This continuing education shall be based on the educational objectives in Rule .0501(c) of this Section consistent with their level of application and approved by the OEMS.

(b) EMD applicants shall successfully complete, within one year prior to application, an AHA CPR course or equivalent, including infant, child, and adult CPR, in addition to Subparagraph (a)(1), (a)(2), ~~and~~ (a)(3) and (a)(4) of this Rule.

Authority G.S. 131E-159 (a)(b); 143-508(d)(3).

10A NCAC 13P .0504 RENEWAL OF CREDENTIALS FOR MR, EMT, EMT-I, EMT-P, AND EMD

MR, EMT, EMT-I, EMT-P, and EMD applicants shall renew credentials by presenting documentation to the OEMS that they have successfully ~~completed~~; completed an approved educational program as described in Rule .0501(c) of this Section.

- (1) ~~an approved educational program as described in Rule .0501(c) of this Section; and~~
- (2) ~~within one year prior to renewal, a scope of practice performance evaluation based on the educational objectives in Rule .0501(e) of this Section consistent with their level of~~

~~application and approved by the OEMS. This evaluation shall be conducted under the direction of the educational medical advisor, EMS System medical director, Specialty Care Transport Program medical director, or a Level II EMS Instructor credentialed at or above the level of application and designated by the educational medical advisor, EMS System medical director, or Specialty Care Transport Program medical director.~~

- (6) within one year prior to application, attend a ~~Level I EMS~~ an OEMS Instructor workshop sponsored by the OEMS; and
- (7) have a high school diploma or General Education Development certificate.

(b) The credential of a Level I EMS Instructor shall be valid for four years, unless any of the following occurs:

- (1) the OEMS imposes an administrative action against the instructor credential; or
- (2) the instructor fails to maintain a current EMT, EMT-I, EMT-P, or EMD credential at the highest level that the instructor is approved to teach.

Authority G.S. 131E-159(a); 143-508(d)(3).

10A NCAC 13P .0507 CREDENTIALING REQUIREMENTS FOR LEVEL I EMS INSTRUCTORS

(a) Applicants for credentialing as a Level I EMS Instructor shall:

- (1) be currently credentialed by the OEMS as an EMT, EMT-I, EMT-P, or EMD;
- (2) have three years experience at the scope of practice for the level of application;
- (3) within one year prior to application, successfully complete ~~both a clinical and educational scope of practice performance~~ an evaluation which demonstrates the applicant's ability to provide didactic and clinical instruction based on the cognitive, psychomotor, and affective educational objectives in Rule .0501(b) of this Section consistent with their level of application and approved by the OEMS:
 - (A) For a credential to teach at the EMT level, this evaluation shall be conducted under the direction of a Level II EMS Instructor credentialed at or above the level of application; ~~and~~
 - (B) For a credential to teach at the EMT-I or EMT-P levels, this evaluation shall be conducted under the direction of the educational medical advisor, a Level II EMS Instructor credentialed at or above the level of application and designated by the educational medical advisor; and
 - (C) For a credential to teach at the EMD level, this evaluation shall be conducted under the direction of the educational medical advisor or a Level I EMS Instructor credentialed at the EMD level designated by the educational medical advisor.
- (4) have 100 hours of teaching experience in an approved EMS educational program or ~~equivalent;~~ an equivalent EMS educational program as approved by the OEMS;
- (5) successfully complete an educational program as described in Rule .0501(b)(5) of this Section;

Authority G.S. 143-508(d)(3).

10A NCAC 13P .0508 CREDENTIALING REQUIREMENTS FOR LEVEL II EMS INSTRUCTORS

(a) Applicants for credentialing as a Level II EMS Instructor shall:

- (1) be currently credentialed by the OEMS as an EMT, EMT-I, EMT-P, or EMD;
- (2) complete post-secondary level education equal to or exceeding an Associate Degree;
- (3) within one year prior to application, successfully complete ~~both a clinical and educational scope of practice performance~~ an evaluation which demonstrates the applicant's ability to provide didactic and clinical instruction based on the cognitive, psychomotor, and affective educational objectives in Rule .0501(b) of this Section consistent with their level of application and approved by the OEMS:
 - (A) For a credential to teach at the EMT level, this evaluation shall be conducted under the direction of a Level II EMS Instructor credentialed at or above the level of application; ~~and~~
 - (B) For a credential to teach at the EMT-I or EMT-P level, this evaluation shall be conducted under the direction of the educational medical advisor, a Level II EMS Instructor credentialed at or above the level of application and designated by the educational medical advisor;
 - (C) For a credential to teach at the EMD level, this evaluation shall be conducted under the direction of the educational medical advisor or a Level I EMS Instructor credentialed at the EMD level designated by the educational medical advisor.
- (4) have two years teaching experience as a Level I EMS Instructor or ~~equivalent;~~ an equivalent teaching experience as approved by the OEMS;

- (5) successfully complete the "EMS Education Administration Course" as adopted by the North Carolina Community College System, incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and additions. This document is available from the North Carolina Community College System, 200 West Jones Street, Raleigh, North Carolina 27603, at no cost; and
 - (6) attend ~~a Level II EMS~~ an OEMS Instructor workshop sponsored by the OEMS;
- (b) The credential of a Level II EMS Instructor shall be valid for four years, unless any of the following occurs:
- (1) The OEMS imposes an administrative action against the instructor credential; or
 - (2) The instructor fails to maintain a current EMT, EMT-I, EMT-P, or EMD credential at the highest level that the instructor is approved to teach.

Authority G.S. 143-508(d)(3).

10A NCAC 13P .0509 CREDENTIALING OF INDIVIDUALS TO ADMINISTER LIFESAVING TREATMENT TO PERSONS SUFFERING AN ADVERSE REACTION TO AGENTS THAT MIGHT CAUSE ANAPHYLAXIS

(a) To become credentialed by the North Carolina Medical Care Commission to administer epinephrine to persons who suffer adverse reactions to agents that might cause anaphylaxis, a person shall meet the following:

- (1) Be 18 years of age or older; and
- (2) successfully complete an educational program taught by a physician licensed to practice medicine in North Carolina or designee of the physician. The educational program shall instruct individuals in the appropriate use of procedures for the administration of epinephrine to pediatric and adult victims who suffer adverse reactions to agents that might cause anaphylaxis and shall include at a minimum the following:
 - (A) definition of anaphylaxis;
 - (B) agents that might cause anaphylaxis and the distinction between them, including drugs, insects, foods, and inhalants;
 - (C) recognition of symptoms of anaphylaxis for both pediatric and adult victims;
 - (D) appropriate emergency treatment of anaphylaxis as a result of agents that might cause anaphylaxis;
 - (E) availability and design of packages containing equipment for administering epinephrine to victims suffering from anaphylaxis as a result of agents that might cause anaphylaxis;

- (F) pharmacology of epinephrine including indications, contraindications, and side effects;
- (G) discussion of legal implications of rendering aid; and
- (H) instruction that treatment is to be utilized only in the absence of the availability of physicians or other practitioners who are authorized to administer the treatment.

(b) A credential to administer epinephrine to persons who suffer adverse reactions to agents that might cause anaphylaxis ~~may~~ shall be issued by the North Carolina Medical Care Commission upon receipt of a completed application signed by the applicant and the physician who taught or was responsible for the educational program. Applications may be obtained from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707. All credentials shall be valid for a period of four years.

(c) This Rule enables only those individuals who do not hold a North Carolina EMS credential and are not associated or affiliated with an EMS system, EMS agency, or emergency response provider to provide care pending arrival of the emergency responders dispatched through a 911 center to an EMS event involving a person suffering an anaphylactic reaction.

Authority G.S. 143-508(d)(11); 143-509(9).

10A NCAC 13P .0510 RENEWAL OF CREDENTIALS FOR LEVEL I AND LEVEL II EMS INSTRUCTORS

(a) Level I and Level II EMS Instructor applicants shall renew credentials by presenting documentation to the OEMS that they:

- (1) are currently credentialed by the OEMS as an EMT, EMT-I, or EMT-P, or EMD;
- (2) successfully completed, within one year prior to application, ~~both a clinical and educational~~ scope of practice performance evaluation which use performance measures based on the cognitive, psychomotor, and affective educational objectives in Rule .0501(b) of this Subchapter consistent with their level of application and approved by the OEMS:
 - (A) To renew a credential to teach at the EMT level, this evaluation shall be conducted under the direction of a Level II EMS Instructor credentialed at or above the level of application;
 - (B) To renew a credential to teach at the EMT-I or EMT-P level, this evaluation shall be conducted under the direction of the educational medical advisor, a Level II EMS Instructor credentialed at or above the level of application and designated by the educational medical advisor; and
 - (C) To renew a credential to teach at the EMD level, this evaluation shall be conducted under the direction of the

educational medical advisor or a Level I EMS Instructor credentialed at the EMD level designated by the educational medical advisor.

- (3) completed 96 hours of EMS instruction at the level of application; and
- (4) completed 40 hours of educational professional ~~development.~~ development as defined by the educational institution and approved by the OEMS.

(b) The credential of a Level I or Level II EMS Instructor shall be valid for four years, unless any of the following occurs:

- (1) the OEMS imposes an administrative action against the instructor credential; or
- (2) the instructor fails to maintain a current EMT, EMT-I, EMT-P, or EMD credential at the highest level that the instructor is approved to teach.

Authority G.S. 131E-159(a)(b); 143-508(d)(3).

10A NCAC 13P .0511 CRIMINAL HISTORIES

(a) The criminal background histories for all individuals who apply for EMS credentials, seek to renew EMS credentials, or hold EMS credentials shall be reviewed pursuant to G.S. 131E-159(g).

(b) In addition to Paragraph (a) of this Rule, the OEMS shall carry out the following for all EMS Personnel whose primary residence is outside North Carolina, individuals who have resided in North Carolina for 60 months or less, and individuals under investigation that may be subject to administrative enforcement action by the Department under the provisions of Rule .0701(e) of this Subchapter:

- (1) obtain a signed consent form for a criminal history check;
- (2) obtain fingerprints on an SBI identification card; and
- (3) obtain the criminal history from the Department of Justice.

(c) An individual shall not be eligible for initial or renewal of EMS credentials if the applicant refuses to consent to any criminal history check required by G.S. 131E-159(g).

Authority G.S. 143-508(d)(3),(10); 131E-159(g); 114-19.21.

SECTION .0600 – EMS EDUCATIONAL INSTITUTIONS

**10A NCAC 13P .0601 CONTINUING EDUCATION
EMS EDUCATIONAL INSTITUTION REQUIREMENTS**

(a) Continuing Education EMS Educational Institutions shall be credentialed by the OEMS to provide EMS continuing education programs.

(b) Continuing Education EMS Educational Institutions shall have:

- (1) at least a Level I EMS Instructor as program coordinator. The program coordinator shall hold a Level I EMS Instructor credential at a level equal to or greater than the highest level of continuing education program offered in the

EMS System or Specialty Care Transport Program;

- (2) a continuing education program consistent with the EMS System or Specialty Care Transport Program continuing education plan for EMS personnel;

(A) In an EMS System, the continuing education programs for EMD, EMT-I, and EMT-P shall be reviewed and approved by the medical director of the EMS System.

(B) In a Model EMS System, the continuing education program shall be reviewed and approved by the system continuing education coordinator and medical director.

(C) In a Specialty Care Transport Program, the continuing education program shall be reviewed and approved by Specialty Care Transport Program Continuing Education Coordinator and the medical director.

- (3) access to instructional supplies and equipment necessary for students to complete educational programs as defined in Rule .0501(c) of this Subchapter;

- (4) educational programs offered in accordance with Rule .0501(c) of this Subchapter;

- (5) an Educational Medical Advisor if offering educational programs that have not been reviewed and approved by a medical director of an EMS System or Specialty Care Transport Program. The Educational Medical Advisor shall meet the criteria as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and

- (6) a written educational plan policies and procedures describing the delivery of educational programs, the record-keeping system detailing student attendance and performance, and the selection and monitoring of EMS instructors.

(c) An application for credentialing as a Continuing Education EMS Educational Institution shall be submitted to the OEMS for review. The application shall demonstrate that the applicant meets the requirements in Paragraph (b) of this Rule.

(d) Continuing Education EMS Educational Institution credentials shall be valid for a period of four years.

~~(e) It is not necessary for Continuing Education EMS Educational Institutions designated as the primary educational delivery agency for a Model EMS System to submit an application for renewal of credentials.~~

Authority G.S. 143-508(d)(4), (13).

10A NCAC 13P .0602 BASIC EMS EDUCATIONAL INSTITUTION REQUIREMENTS

(a) Basic EMS Educational Institutions may offer MR, EMT, and EMD courses for which they have been credentialed by the OEMS.

(b) For initial courses, Basic EMS Educational Institutions shall have:

- (1) at least a Level I EMS Instructor as lead course instructor for MR and EMT courses. The lead course instructor must be credentialed at a level equal to or higher than the course offered;
- (2) at least a Level I EMS Instructor credentialed at the EMD level as lead course instructor for EMD courses;
- (3) a lead EMS educational program coordinator. This individual may be either a Level II EMS Instructor credentialed at or above the highest level of course offered by the institution, or a combination of staff who cumulatively meet the requirements of the Level II EMS Instructor referenced in this ~~Paragraph~~ Subparagraph. These individuals may share the responsibilities of the lead EMS educational coordinator. The details of this option shall be defined in the educational plan required in Subparagraph (b)(5) of this Rule. Basic EMS Educational Institutions offering only EMD courses may meet this requirement with a Level I EMS Instructor credentialed at the EMD level;
- (4) an Educational Medical Advisor that meets the criteria as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection" incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost;
- (5) ~~a~~ a written educational ~~plan~~ policies and procedures describing the delivery of educational programs, the record-keeping system detailing student attendance and performance; and the selection and monitoring of EMS instructors; and
- (6) access to instructional supplies and equipment necessary for students to complete educational programs as defined in Rule ~~.0501(e)~~ .0501(b) of this Subchapter.

(c) For EMS continuing education programs, Basic EMS Educational Institutions shall meet the requirements defined in Paragraphs (a) and (b) of Rule .0601 of this Section.

(d) An application for credentialing as a Basic EMS Educational Institution shall be submitted to the OEMS for review. The

proposal shall demonstrate that the applicant meets the requirements in Paragraphs (b) and (c) of this Rule.

(e) Basic EMS Educational Institution credentials shall be valid for a period of four years.

~~(f) It is not necessary for Basic EMS Educational Institutions designated as the primary educational delivery agency for a Model EMS System to submit an application for renewal of credentials.~~

Authority G.S. 143-508(d)(4), (13).

10A NCAC 13P .0603 ADVANCED EMS EDUCATIONAL INSTITUTION REQUIREMENTS

(a) Advanced EMS Educational Institutions may offer all EMS educational programs for which they have been credentialed by the OEMS.

(b) For initial courses, Advanced EMS Educational Institutions shall have:

- (1) at least a Level I EMS Instructor as lead course instructor for MR and EMT courses. The lead course instructor must be credentialed at a level equal to or higher than the course offered;
- (2) at least a Level I EMS Instructor credentialed at the EMD level as lead course instructor for EMD courses;
- (3) a Level II EMS Instructor as lead instructor for EMT-I and EMT-P courses. The lead course instructor must be credentialed at a level equal to or higher than the course offered;
- (4) a lead EMS educational program coordinator. This individual may be either a Level II EMS Instructor credentialed at or above the highest level of course offered by the institution, or a combination of staff who cumulatively meet the requirements of the Level II EMS Instructor referenced in this ~~Paragraph~~ Subparagraph. These individuals may share the responsibilities of the lead EMS educational coordinator. The details of this option shall be defined in the educational plan required in Subparagraph (b)(6) of this Rule;
- (5) an Educational Medical Advisor that meets the criteria as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost; and
- (6) ~~a~~ a written educational ~~plan~~ policies and procedures describing the delivery of educational programs, the record-keeping system detailing student attendance and performance; and the selection and monitoring of EMS instructors;

(7) access to instructional supplies and equipment necessary for students to complete educational programs as defined in Rule ~~.0501(e)~~ .0501(b) of this Subchapter.

(c) For EMS continuing education programs, Advanced EMS Educational Institutions shall meet the requirements defined in Paragraphs (a) and (b) of Rule .0601 of this Section.

(d) An application for credentialing as an Advanced EMS Educational Institution shall be submitted to the OEMS for review. The application shall demonstrate that the applicant meets the requirements in Paragraphs (b) and (c) of this Rule.

(e) Advanced Educational Institution credentials shall be valid for a period of four years.

~~(f) It is not necessary for Advanced EMS Educational Institutions designated as the primary educational delivery agency for a Model EMS System to submit an application for renewal of credentials.~~

Authority G.S. 143-508(d)(4), (13).

SECTION .0700 – ENFORCEMENT

10A NCAC 13P .0701 DENIAL, SUSPENSION, AMENDMENT OR REVOCATION

(a) The Department may deny, suspend, or revoke the permit of an ambulance or EMS nontransporting vehicle if the EMS ~~provider:~~ Provider:

- (1) fails to ~~substantially~~ comply with the requirements of Section .0200 of this Subchapter;
- (2) obtains or attempts to obtain a permit through fraud or misrepresentation; or
- (3) fails to provide emergency medical care within the defined EMS service area in a timely manner.

(b) In lieu of suspension or revocation, the Department may issue a temporary permit for an ambulance or EMS nontransporting vehicle whenever the Department finds that:

- (1) the EMS ~~provider~~ Provider to which that vehicle is assigned has substantially failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that Article;
- (2) there is a reasonable probability that the EMS ~~provider~~ Provider can remedy the permit deficiencies within a length of time determined by the department; and
- (3) there is a reasonable probability that the EMS ~~provider~~ Provider will be willing and able to remain in compliance with the rules regarding vehicle permits for the foreseeable future.

(c) The Department shall give the EMS ~~provider~~ Provider written notice of the temporary permit. This notice shall be given personally or by certified mail and shall set forth:

- (1) the duration of the temporary permit not to exceed 60 days;
- (2) a copy of the vehicle inspection form;
- (3) the statutes or rules alleged to be violated; and

(4) notice to the EMS ~~provider's~~ Provider's right to a contested case hearing on the temporary permit.

(d) The temporary permit shall be effective immediately upon its receipt by the EMS ~~provider~~ Provider and shall remain in effect until the earlier of the expiration date of the permit or until the Department:

- (1) restores the vehicle to full permitted status; or
- (2) suspends or revokes the vehicle permit.

(e) The Department may amend, deny, suspend, or revoke the credentials of EMS personnel for any of the following reasons:

- (1) failure to comply with the applicable performance and credentialing requirements as found in this Subchapter;
- (2) making false statements or representations to the OEMS or willfully concealing information in connection with an application for credentials;
- (3) being unable to perform as credentialed EMS personnel with reasonable skill and safety to patients and the public by reason of illness, use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality;
- (4) unprofessional conduct, including but not limited to a failure to comply with the rules relating to the proper function of credentialed EMS personnel contained in this Subchapter or the performance of or attempt to perform a procedure that is detrimental to the health and safety of any person or that is beyond the scope of practice of credentialed EMS personnel or EMS instructors;
- (5) conviction in any court of a crime involving moral turpitude, a conviction of a felony, or conviction of a crime involving the scope of practice of credentialed EMS personnel;
- (6) by false representations obtaining or attempting to obtain money or anything of value from a patient;
- (7) adjudication of mental incompetence;
- (8) lack of competence to practice with a reasonable degree of skill and safety for patients including but not limited to a failure to perform a prescribed procedure, failure to perform a prescribed procedure competently or performance of a procedure that is not within the scope of practice of credentialed EMS personnel or EMS instructors;
- (9) making false statements or representations, willfully concealing information, or failing to respond within a reasonable period of time and in a reasonable manner to inquiries from the OEMS;
- (10) testing positive for any substance, legal or illegal, that is likely to impair the physical or psychological ability of the credentialed EMS personnel to perform all required or expected functions while on duty;

- (11) ~~representing or allowing others to represent that the credentialed EMS personnel has a credential that the credentialed EMS personnel does not in fact have; or~~
- (12) ~~failure to comply with G.S. 143-518 regarding the use or disclosure of records or data associated with EMS Systems, Specialty Care Transport Programs, or ~~patients~~; patients;~~
- (13) ~~refusing to consent to any criminal history check required by G.S. 131E-159;~~
- (14) ~~abandoning or neglecting a patient who is in need of care, without making reasonable arrangements for the continuation of such care;~~
- (15) ~~harassing, abusing, or intimidating a patient either physically or verbally;~~
- (16) ~~falsifying a patient's record or any controlled substance records;~~
- (17) ~~falsifying any record used in the process of obtaining an initial EMS credential or in the renewal of an EMS credential;~~
- (18) ~~engaging in any activities of a sexual nature with a patient including kissing, fondling or touching while responsible for the care of that individual;~~
- (19) ~~any criminal arrests that involve charges which have been determined by the Department to indicate a necessity to seek action in order to further protect the public pending adjudication by a court; or~~
- (20) ~~altering an EMS credential, using an EMS credential that has been altered or permitting or allowing another person to use his or her EMS credential for the purpose of alteration. Altering is defined as including changing the name, expiration date or any other information appearing on the EMS credential.~~

(f) The Department may amend any EMS ~~provider~~ Provider license by reducing it from a full license to a provisional license whenever the Department finds that:

- (1) the licensee has ~~substantially~~ failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that article;
- (2) there is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and
- (3) there is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

(g) The Department shall give the licensee written notice of the amendment to the EMS ~~provider~~ Provider license. This notice shall be given personally or by certified mail and shall set forth:

- (1) the length of the provisional EMS ~~provider~~ Provider license;
- (2) the factual allegations;
- (3) the statutes or rules alleged to be violated; and
- (4) notice to the EMS provider's right to a contested case hearing on the amendment of the EMS ~~provider~~ Provider license.

(h) The provisional EMS ~~provider~~ Provider license shall be effective immediately upon its receipt by the licensee and shall be posted in a prominent location at the primary business location of the EMS ~~provider~~, Provider, accessible to public view, in lieu of the full license. The provisional license shall remain in effect until the Department:

- (1) restores the licensee to full licensure status; or
- (2) revokes the licensee's license.

(i) The Department may revoke or suspend an EMS ~~provider~~ Provider license whenever the Department finds that the licensee:

- (1) has ~~substantially~~ failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that article and it is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time;
- (2) has ~~substantially~~ failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that article and, although the licensee may be able to remedy the deficiencies within a reasonable period of time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future;
- (3) has failed to comply with the provision of G.S. 131E, Article 7, and the rules adopted under that article that endanger the health, safety or welfare of the patients cared for or transported by the licensee; ~~or~~
- (4) obtained or attempted to obtain an ambulance permit, EMS nontransporting vehicle permit, or EMS ~~provider~~ Provider license through fraud or ~~misrepresentation~~; misrepresentation; ~~or~~
- (5) is continuing to operate within an EMS System after a Board of County Commissioners has terminated its affiliation with the licensee.

(j) The issuance of a provisional EMS ~~provider~~ Provider license is not a procedural prerequisite to the revocation or suspension of a license pursuant to Paragraph (i) of this Rule.

(k) The Department may amend, deny, suspend, or revoke the credential of an EMS educational institution for any of the following reasons:

- (1) failure to ~~substantially~~ comply with the requirements of Section .0600 of this Subchapter; or
- (2) obtaining or attempting to obtain a credential through fraud or misrepresentation.

(l) The Department may amend, deny, suspend, or revoke the approval of an EMS System or designation of a Model EMS System for any of the following reasons:

- (1) failure to ~~substantially~~ comply with the requirements of Section .0200 of this Subchapter; or
- (2) obtaining or attempting to obtain designation through fraud or misrepresentation.

(m) The Department may amend, deny, suspend, or revoke the designation of a Specialty Care Transport Program for any of the following reasons:

- (1) failure to ~~substantially~~ comply with the requirements of Section .0300 of this Subchapter; or
- (2) obtaining or attempting to obtain designation through fraud or misrepresentation.

(n) The OEMS may deny the initial or renewal designation, without first allowing a focused review, of a trauma center for any of the following reasons:

- (1) failure to comply with G.S. 131E-162 and the rules adopted under that Statute; or
- (2) attempting to obtain a trauma center designation through fraud or misrepresentation; or
- (3) endangerment to the health, safety, or welfare of patients cared for in the hospital; or
- (4) repetition of contingencies placed on the trauma center in previous site visits.

(o) When a trauma center is required to have a focused review, it must demonstrate compliance with the provisions of G.S. 131E-162 and the rules adopted under that Statute within one year or less.

(p) The OEMS may revoke a trauma center designation at any time or deny a request for renewal of designation, whenever the OEMS finds that the trauma center has failed to comply with the provisions of G.S. 131E-162 and the rules adopted under that Statute; and

- (1) it is not probable that the trauma center can remedy the deficiencies within one year or less; or
- (2) although the trauma center may be able to remedy the deficiencies within a reasonable period of time, it is not probable that the trauma center shall be able to remain in compliance with designation rules for the foreseeable future; or
- (3) the trauma center fails to meet the requirements of a focused review; or
- (4) failure to comply endangers the health, safety, or welfare of patients cared for in the trauma center.

(q) The OEMS shall give the trauma center written notice of revocation. This notice shall be given personally or by certified mail and shall set forth:

- (1) the factual allegations;
- (2) the statutes or rules alleged to be violated; and
- (3) notice of the hospital's right to a contested case hearing on the amendment of the designation.

(r) Focused review is not a procedural prerequisite to the revocation of a designation pursuant to Paragraph (p) of this Rule.

(s) With the OEMS' approval, a trauma center may voluntarily withdraw its designation for a maximum of one year by submitting a written request. This request shall include the reasons for withdrawal and a plan for resolution of the issues. To reactivate the designation, the facility shall provide written documentation of compliance that is acceptable to the OEMS.

Voluntary withdrawal shall not affect the original expiration date of the trauma center's designation.

(t) If the trauma center fails to resolve the issues which resulted in a voluntary withdrawal within the specified time period for resolution, the OEMS may revoke the trauma center designation.

(u) In the event of a revocation or voluntary withdrawal, the OEMS shall provide written notification to all hospitals and emergency medical services providers within the trauma center's defined trauma primary catchment area. The OEMS shall provide written notification to all hospitals and emergency medical services providers within the trauma center's defined trauma primary catchment area if, and when, the voluntary withdrawal reactivates to full designation.

Authority G.S. 131E-155.1(d); 131E-157(c); 131E-159(a),(f); 131E-162; 143-508(d)(10).

SECTION .0800 – TRAUMA SYSTEM DEFINITIONS

10A NCAC 13P .0801 TRAUMA SYSTEM DEFINITIONS

The following definitions apply throughout this Subchapter:

- (1) ~~"ACS" stands for the American College of Surgeons.~~
- (2) ~~"Advanced Trauma Life Support (ATLS)" refers to the course sponsored by the American College of Surgeons.~~
- (3) ~~"Affiliated Hospital" means a non-trauma center hospital that is owned by the trauma center such that a contract or other agreement exists between these facilities to allow for the diversion or transfer of the trauma center's patient population to this non-trauma center hospital.~~
- (4) ~~"Attending" is a physician who has completed medical or surgical residency and is either eligible to take boards in a specialty area or is boarded in a specialty.~~
- (5) ~~"Board Certified, Board Certification, Board Eligible, Board Prepared, or Boarded" means approval by the American Board of Medical Specialties, the Advisory Board for Osteopathic Specialties, or the Royal College of Physicians and Surgeons of Canada unless a further sub-specialty such as the American Board of Surgery or Emergency Medicine is specified.~~
- (6) ~~"Bypass" means the transport of an emergency medical services patient past an emergency medical services receiving facility for the purposes of accessing a designated trauma center or a higher level trauma center.~~
- (7) ~~"Contingencies" are conditions placed on a trauma center's designation that, if unmet, can result in the loss or amendment of a hospital's designation.~~
- (8) ~~"Deficiency" is the failure to meet essential criteria for a trauma center's designation as specified in Section .0900 of this Subchapter.~~

- that can serve as the basis for a focused review or denial of a trauma center designation.
- (9) ~~"Department" means the North Carolina Department of Health and Human Services.~~
- (10) ~~"Diversion" means that a hospital of its own volition reroutes a trauma patient to a trauma center from the scene or referring hospital.~~
- (11) ~~"E-Code" is a numeric identifier that defines the cause of injury, taken from the International Classification of Diseases (ICD).~~
- (12) ~~"Essential Criteria" means those items listed in Rules .0901, .0902, and .0903 of this Section that are the minimum requirements in staffing, equipment, services, etc., for the respective level of trauma center designation (I, II, or III).~~
- (13) ~~"Focused Review" is an evaluation of the trauma center's corrective actions to remove contingencies (as the result of deficiencies) placed upon it following a renewal site visit.~~
- (14) ~~"Hospital" means a licensed facility as defined in G.S. 131E-176.~~
- (15) ~~"Immediately Available" means the physical presence of the health professional in a location in the trauma center as defined by the needs of the trauma patient.~~
- (16) ~~"Lead RAC Agency" is the agency (comprised of one or more Level I or II trauma centers) that provides staff support and serves as the coordinating entity for trauma planning in a region.~~
- (17) ~~"Level I Trauma Center" is a regional resource trauma center that has the capability of providing leadership, research, and total care for every aspect of injury from prevention to rehabilitation.~~
- (18) ~~"Level II Trauma Center" is a hospital that provides definitive trauma care regardless of the severity of the injury but may not be able to provide the same comprehensive care as a Level I trauma center and does not have trauma research as a primary objective.~~
- (19) ~~"Level III Trauma Center" is a hospital that provides prompt assessment, resuscitation, emergency operations, and stabilization, and arranges for hospital transfer as needed to a Level I or II trauma center.~~
- (20) ~~"Mid level Practitioner means a physician assistant or nurse practitioner who routinely cares for trauma patients."~~
- (21) ~~"OEMS" means the Office of Emergency Medical Services.~~
- (22) ~~"Post Graduate Year Four (PGY4)" means any surgery resident having completed three clinical years of general surgical training. A pure laboratory year shall not constitute a clinical year.~~
- (23) ~~"Promptly Available" means the physical presence of health professionals in a location in the trauma center within a short period of~~
- ~~time, that is defined by the trauma system (director) and continuously monitored by the performance improvement program.~~
- (24) ~~"RAC" stands for "Regional Advisory Committee" which is comprised of a lead RAC agency and a group representing trauma care providers and the community, for the purpose of regional trauma planning, establishing, and maintaining a coordinated trauma system.~~
- (25) ~~"Revocation" means the removal of a trauma center designation for concerns related to patient morbidity or mortality or failure to meet essential criteria or recurrent contingencies.~~
- (26) ~~"RFP" stands for "Request for Proposal" and is a standardized state document that must be completed by each hospital seeking initial or renewal trauma center designation.~~
- (27) ~~"Transfer Agreement" means a formal written agreement between two agencies specifying the appropriate transfer of patient populations delineating the conditions and methods of transfer.~~
- (28) ~~"Trauma Center" is a hospital facility designated by the State of North Carolina and distinguished by its ability to immediately manage, on a 24-hour basis, the severely injured patient or those at risk for severe injury.~~
- (29) ~~"Trauma Center Criteria" means essential criteria to define Level I, II, or III trauma centers.~~
- (30) ~~"Trauma Center Designation" means a formalized process of approval in which a hospital voluntarily seeks to have its trauma care capabilities and performance evaluated by experienced on-site reviewers.~~
- (31) ~~"Trauma Guidelines" are suggested standards for practice in a variety of situations within the trauma system.~~
- (32) ~~"Trauma Minimum Data Set" means the basic data required of all hospitals for submission to the trauma statewide database.~~
- (33) ~~"Trauma Patient" is any patient with an ICD 9-CM discharge diagnosis 800.00-959.9 excluding 905-909 (late effects of injury), 910.0-924 (blisters, contusions, abrasions, and insect bites), and 930-939 (foreign bodies).~~
- (34) ~~"Trauma Performance Improvement Program (TPIP)" means a system in which outcome data is used to modify the process of patient care and prevent repetition of adverse events.~~
- (35) ~~"Trauma Program" means an administrative entity that includes the trauma service and coordinates other trauma related activities. It must also include, at a minimum, the trauma medical director, trauma program manager/trauma coordinator, and trauma registrar. This program's reporting structure~~

- shall give it the ability to interact with at least equal authority with other departments providing patient care.
- (36) ~~"Trauma Protocols" are standards for practice in a variety of situations within the trauma system.~~
- (37) ~~"Trauma Registry" is an OEMS maintained database to provide information for analysis and evaluation of the quality of patient care, including epidemiological and demographic characteristics of trauma patients.~~
- (38) ~~"Trauma Service" means a clinical service established by the medical staff that has oversight of and responsibility for the care of the trauma patient.~~
- (39) ~~"Trauma System" means an integrated network that ensures that acutely injured patients are expeditiously taken to hospitals appropriate for their level of injury.~~
- (40) ~~"Trauma Team" means a group of health care professionals organized to provide coordinated and timely care to the trauma patient.~~
- (41) ~~"Triage" is a predetermined schematic for patient distribution based upon established medical needs.~~

- (f) Be involved with trauma research and the publication of results and presentations.
- (4) A full-time ~~trauma nurse coordinator (TNC)/program manager (TPM)~~ TNC/TPM who is a registered nurse, licensed by the North Carolina Board of Nursing;
- (5) A full-time ~~trauma registrar (TR)~~ TR who has a working knowledge of medical terminology, is able to operate a personal computer, and has ~~demonstrated~~ the ability to extract data from the medical record;
- (6) A hospital department/division/section for general surgery, neurological surgery, emergency medicine, anesthesiology, and orthopaedic surgery, with designated chair or physician liaison to the trauma program for each;
- (7) Clinical capabilities in general surgery with ~~two~~ separate posted call schedules. One shall be for trauma, one for general ~~surgery~~, surgery and a back-up call schedule for trauma. In those instances where a physician may simultaneously be listed on both schedules, there must be a defined back-up surgeon listed on the schedule to allow the trauma surgeon to provide care for the trauma patient. ~~The trauma service director shall specify, in writing, the specific credentials that each back-up surgeon must have. These must state that the back-up surgeon has surgical privileges at the trauma center and is boarded or eligible in general surgery (with board certification in general surgery within five years of completing residency).~~ If a trauma surgeon is simultaneously on call at more than one hospital, there shall be a defined, posted trauma surgery back-up call schedule composed of surgeons credentialed to serve on the trauma panel.
- (8) ~~Response of a~~ A trauma team to provide evaluation and treatment of a trauma patient 24 hours per day that includes:
- (a) An in-house ~~Post Graduate Year 4 (PGY4) trauma attending or PGY4 or senior general surgical resident, at a minimum, who is a member of that hospital's surgical residency program and responds within 20 minutes of notification;~~ resident. The trauma attending participates in therapeutic decisions and is present at all operative procedures.
- (b) ~~A trauma attending whose presence at the patient's bedside within 20 minutes of notification is documented and who participates in therapeutic~~

Authority G.S. 131E-162.

SECTION .0900 – TRAUMA CENTER STANDARDS AND APPROVAL

10A NCAC 13P .0901 LEVEL I TRAUMA CENTER CRITERIA

To receive designation as a Level I Trauma Center, a hospital shall have the following:

- (1) A trauma program and a trauma service that have been operational for at least ~~six~~ 12 months prior to application for designation;
- (2) Membership in and inclusion of all trauma patient records in the North Carolina Trauma Registry for at least ~~six~~ 12 months prior to submitting a Request for Proposal;
- (3) ~~Trauma~~ A trauma medical director who is a board-certified general surgeon. The trauma medical director must:
 - (a) Have a minimum of three years clinical experience on a trauma service or trauma fellowship training;
 - (b) Serve on the center's trauma service;
 - (c) Participate in providing care to patients with life-threatening or urgent injuries;
 - (d) Participate in the North Carolina Chapter of the ACS Committee on Trauma as well as other regional and national trauma organizations;
 - (e) Remain a current provider in the ACS' Advanced Trauma Life Support ATLS Course and in the provision of

- decisions and is present at all operative procedures;
- (e)(b) An emergency physician who is present in the Emergency Department 24 hours per day who is either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine). Emergency physicians caring only for pediatric patients may, as an alternative, be boarded or prepared in pediatric emergency medicine. Emergency physicians must be board-certified within five years after successful completion of a residency in emergency medicine and serve as a designated member of the trauma team to ensure immediate care for the injured patient until the arrival of the trauma surgeon;
- (d)(c) Neurosurgery specialists who are never simultaneously on-call at another Level II or higher trauma center, who are promptly available, if requested by the trauma team leader, unless there is either an in-house attending neurosurgeon, a ~~Post Graduate Year 2 (PGY2)~~ PGY2 or higher in-house neurosurgery resident or an in-house trauma surgeon or emergency physician as long as the institution can document management guidelines and annual continuing medical education for neurosurgical emergencies. There must be a specified ~~written~~ back-up on the call schedule whenever the neurosurgeon is simultaneously on-call at a hospital other than the trauma center;
- (e)(d) Orthopaedic surgery specialists who are never simultaneously on-call at another Level II or higher trauma center, who are promptly available, if requested by the trauma team leader, unless there is either an in-house attending orthopaedic surgeon, a ~~Post Graduate Year 2 (PGY2)~~ PGY2 or higher in-house orthopaedic surgery resident or an in-house trauma surgeon or emergency physician as long as the institution can document management guidelines and annual continuing medical education for orthopaedic emergencies. There must be a specified ~~written~~ documented back-up on the call schedule whenever the orthopaedist is simultaneously on-call at a hospital other than the trauma center;
- (f)(e) An in-house anesthesiologist or a ~~Clinical Anesthesiology Year 3 (CA3)~~ CA3 resident as long as an anesthesiologist on-call is advised and promptly available if requested by the trauma team leader, and
- (g)(f) Registered nursing personnel trained in the care of trauma patients.
- (9) A written credentialing process established by the Department of Surgery to approve mid-level practitioners and attending general surgeons covering the trauma service. The surgeons must have board certification in general surgery within five years of completing residency;
- (10) Neurosurgeons and orthopaedists serving the trauma service who are currently board certified or eligible. Those who are eligible must be board certified within five years after successful completion of the residency;
- (11) ~~Standard written~~ Written protocols relating to trauma management formulated and ~~routinely updated;~~ updated to remain current;
- (12) Criteria to ensure team activation prior to ~~arrival~~ arrival, and trauma attending arrival within 15 minutes of the arrival of ~~trauma/burn~~ trauma and burn patients ~~to that~~ that include the following: following conditions:
- (a) Shock;
 - (b) Respiratory distress;
 - (c) Airway compromise;
 - (d) Unresponsiveness (~~Glasgow Coma Scale (GSC) less than 8~~) eight) with potential for multiple injuries; ~~and~~
 - (e) Gunshot wound to head, neck, or ~~torso;~~ torso;
 - (f) Patients receiving blood to maintain vital signs; and
 - (g) ED physician's decision to activate.
- (13) Surgical evaluation, based upon the following criteria, by the ~~health professional who is promptly available;~~ trauma attending surgeon who is promptly available;
- (a) Proximal amputations;
 - (b) Burns meeting institutional transfer criteria;
 - (c) Vascular compromise;
 - (d) Crush to chest or pelvis;
 - (e) Two or more proximal long bone fractures; and
 - (f) Spinal cord injury.
- A senior surgical resident may initiate the evaluation.
- (14) Surgical consults, at the request of the ED physician based upon the following criteria, by the ~~health professional who is promptly~~

~~available: trauma attending surgeon who is promptly available:~~

- (a) Falls greater than 20 feet;
- (b) Pedestrian struck by motor vehicle;
- (c) Motor vehicle crash with:
 - (i) Ejection (includes motorcycle);
 - (ii) Rollover;
 - (iii) Speed greater than 40 mph; or
 - (iv) Death of another individual ~~at the scene; in the same vehicle;~~ in the same vehicle;
- (d) Extremes of age, less than five or greater than 70 ~~years; years.~~

A senior surgical resident may initiate the evaluation.

- (15) Clinical capabilities (promptly available if requested by the trauma team leader, with a posted on-call schedule), ~~to~~ that include individuals credentialed in the following:

- (a) Cardiac surgery;
- (b) Critical care;
- (c) Hand surgery;
- (d) Microvascular/replant ~~surgery;~~ surgery, or if service is not available, a transfer agreement must exist;
- (e) Neurosurgery (The neurosurgeon must be dedicated to one hospital or a back-up call schedule must be available. If fewer than 25 emergency neurosurgical trauma operations are done in a year, and the neurosurgeon is dedicated only to that hospital, then a published back-up call list is not necessary.)
- (f) Obstetrics/gynecologic surgery;
- (g) Ophthalmic surgery;
- (h) ~~Oral/maxillofacial surgery;~~ Oral maxillofacial surgery (may be fulfilled by a combination of ENT, Plastic, or OMF specialties);
- (i) Orthopaedics (dedicated to one hospital or a back-up call schedule must be available);
- (j) Pediatric surgery;
- (k) Plastic surgery;
- (l) Radiology;
- (m) Thoracic surgery; and
- (n) Urologic surgery.

- (16) An Emergency Department that has:

- (a) A designated physician director who is board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine);

- (b) 24-hour-per-day staffing by physicians physically present in the ~~Emergency Department ED~~ such that:

- (i) At least one physician on every shift in the ~~Emergency Department ED~~ is either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine) to serve as the designated member of the trauma team ~~at least to ensure immediate care~~ until the arrival of the trauma surgeon. Emergency physicians caring only for pediatric patients may, as an alternative, be boarded in pediatric emergency medicine. All emergency physicians must be board-certified within five years after successful completion of the residency;

- (ii) All remaining emergency physicians, if not board-certified or prepared in emergency medicine as outlined in ~~Item~~ Subitem (16)(b)(i) of this Rule, are board-certified, or eligible by the American Board of Surgery, American Board of Family Practice, or American Board of Internal Medicine, with each being board-certified within five years after successful completion of a residency; and

- (iii) All emergency physicians practice emergency medicine as their primary specialty.

- (c) Nursing personnel with experience in trauma care who continually monitor the trauma patient from hospital arrival to disposition to an intensive care unit, operating room, or patient care unit;

- (d) Equipment for patients of all ages to include:

- (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask

- (ii) Pulse oximetry;
 - (iii) End-tidal carbon dioxide determination equipment;
 - (iv) Suction devices;
 - (v) Electrocardiograph-oscilloscope-defibrillator with internal paddles;
 - (vi) Apparatus to establish central venous pressure monitoring;
 - (vii) Intravenous fluids and administration devices ~~to~~ that include large bore catheters and intraosseous infusion devices;
 - (viii) Sterile surgical sets for airway control/cricothyrotomy, thoracotomy, vascular access, thoracostomy, peritoneal lavage, and central line insertion;
 - (ix) Apparatus for gastric decompression;
 - (x) 24-hour-per-day x-ray capability;
 - (xi) Two-way communication equipment for communication with the emergency transport system;
 - (xii) Skeletal traction devices, including capability for cervical traction;
 - (xiii) Arterial catheters;
 - (xiv) Thermal control equipment for patients;
 - (xv) Thermal control equipment for blood and fluids;
 - (xvi) ~~Rapid~~ A rapid infuser system;
 - (xvii) ~~Broselow tape;~~ A dosing reference and measurement system to ensure appropriate age related medical care;
 - (xviii) Sonography; and
 - (xix) ~~Doppler.~~ A doppler.
- (17) An operating suite that is immediately available 24 hours per day and has:
- (a) 24-hour-per-day immediate availability of in-house staffing;
 - (b) Equipment for patients of all ages ~~to include:~~ that includes:
 - (i) Cardiopulmonary bypass capability;
 - (ii) ~~Operating microscope;~~
 - (iii)(ii) Thermal control equipment for patients
 - (iv)(iii) Thermal control equipment for blood and fluids;
 - (v)(iv) 24-hour-per-day x-ray capability including c-arm image intensifier;
 - (vi)(v) Endoscopes and bronchoscopes;
 - (vii)(vi) Craniotomy instruments;
 - (viii)(vii) ~~Capability~~ The capability of fixation of long-bone and pelvic fractures; and
 - (ix)(viii) ~~Rapid~~ A rapid infuser system.
- (18) A postanesthetic recovery room or surgical intensive care unit that has:
- (a) 24-hour-per-day in-house staffing by registered nurses;
 - (b) Equipment for patients of all ages ~~to include:~~ that includes:
 - (i) ~~Capability~~ The capability for resuscitation and continuous monitoring of temperature, hemodynamics, and gas exchange;
 - (ii) ~~Capability~~ The capability for continuous monitoring of intracranial pressure;
 - (iii) Pulse oximetry;
 - (iv) End-tidal carbon dioxide determination capability;
 - (v) Thermal control equipment for patients; and
 - (vi) Thermal control equipment for blood and fluids.
- (19) An intensive care unit for trauma patients that has:
- (a) A designated surgical director for trauma patients;
 - (b) A physician on duty in the intensive care unit 24 hours per day or immediately available from within the hospital as long as this physician is not the sole physician on-call for the Emergency Department;
 - (c) Ratio of one nurse per two patients on each shift;
 - (d) Equipment for patients of all ages ~~to include:~~ that includes:
 - (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask resuscitators, and pocket masks);
 - (ii) ~~Oxygen~~ An oxygen source with concentration controls;
 - (iii) ~~Cardiac~~ A cardiac emergency cart;

- (iv) ~~Temporary;~~ A temporary transvenous pacemaker;
 - (v) ~~Electrocardiograph-oscilloscope-defibrillator~~ An electrocardiograph-oscilloscope-defibrillator with internal paddles;
 - (vi) Cardiac output monitoring capability;
 - (vii) Electronic pressure monitoring capability;
 - (viii) ~~Mechanical~~ A mechanical ventilator;
 - (ix) Patient weighing devices;
 - (x) Pulmonary function measuring devices;
 - (xi) Temperature control devices; and
 - (xii) Intracranial pressure monitoring devices.
- (e) Within 30 minutes of request, the ability to perform blood gas measurements, hematocrit level, and chest x-ray studies;
- (20) Acute hemodialysis capability;
- (21) Physician-directed burn center staffed by nursing personnel trained in burn care or a ~~written~~ transfer agreement with a burn center;
- (22) Acute spinal cord management capability or ~~written~~ transfer agreement with a hospital capable of caring for a spinal cord injured patient;
- (23) Radiological capabilities that include:
- (a) 24-hour-per-day in-house radiology technologist;
 - (b) 24-hour-per-day in-house computerized tomography technologist;
 - (c) Sonography;
 - (d) Computed tomography;
 - (e) Angiography;
 - (f) Magnetic resonance imaging; and
 - (g) Resuscitation equipment ~~to include:~~ airway that includes airway management and IV therapy.
- (24) Respiratory therapy services available in-house 24 hours per day;
- (25) 24-hour-per-day clinical laboratory service that must include:
- (a) ~~Standard analysis~~ Analysis of blood, urine, and other body fluids, including micro-sampling when appropriate;
 - (b) Blood-typing and cross-matching;
 - (c) Coagulation studies;
 - (d) Comprehensive blood bank or access to community central blood bank with storage facilities;
- (e) Blood gases and pH determination; and
 - (f) Microbiology.
- (26) A rehabilitation service that provides:
- (a) A staff trained in rehabilitation care of critically injured patients;
 - (b) ~~For major trauma patients, functional~~ Functional assessment and recommendations regarding short- and long-term rehabilitation needs within one week of the patient's admission to the hospital or as soon as hemodynamically stable;
 - (c) ~~Full-in-house~~ In-house rehabilitation service or a ~~written~~ transfer agreement with a rehabilitation facility accredited by the Commission on Accreditation of Rehabilitation Facilities;
 - (d) Physical, occupational, speech therapies, and social services; and
 - (e) Substance abuse evaluation and counseling capability.
- (27) A performance improvement program, as outlined in the North Carolina Chapter of the American College of Surgeons Committee on Trauma document "Performance Improvement Guidelines for North Carolina Trauma Centers," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. This performance improvement program must include:
- (a) ~~The trauma registry state Trauma Registry agreed to by the North Carolina State Trauma Advisory Committee and OEMS,~~ whose data is submitted to the OEMS at least ~~quarterly~~ weekly and includes all the center's trauma patients as defined in Rule ~~.0801(33)~~ .0102(57) of this ~~Subchapter~~ who are either diverted to an affiliated hospital, admitted to the trauma center for greater than ~~23:59 hours (24 hours or more)~~ 24 hours from an ED or hospital, die in the ED, are DOA or are transferred from the ED to the OR, ICU, or another hospital (including transfer to any affiliated hospital);
 - (b) Morbidity and mortality reviews ~~to include~~ including all trauma deaths;
 - (c) Trauma performance committee that meets at least ~~quarterly,~~ to include quarterly and includes physicians, nurses, pre-hospital personnel, and a variety of other healthcare providers,

- and reviews policies, procedures, and system issues and whose members or designee attends at least ~~50%~~ 50 percent of the regular meetings;
- (d) Multidisciplinary peer review committee that meets at least quarterly and includes physicians from trauma, neurosurgery, orthopaedics, emergency medicine, anesthesiology, and other specialty physicians, as needed, specific to the case, and the trauma nurse coordinator/program manager and whose members or designee attends at least ~~50%~~ 50 percent of the regular meetings;
- (e) Identification of discretionary and non-discretionary audit filters;
- (f) Documentation and review of times and reasons for trauma-related diversion of patients from the scene or referring hospital;
- (g) Documentation and review of response times for trauma surgeons, neurosurgeons, anesthesiologists or airway managers, and orthopaedists. All must demonstrate ~~80%~~ 80 percent compliance.
- (h) Monitoring of trauma team notification times;
- (i) Review of pre-hospital trauma care ~~to include that includes~~ that includes dead-on-arrivals; and
- (j) Review of times and reasons for transfer of injured patients.
- (28) An outreach program ~~to include; that includes:~~ that includes:
- (a) ~~Written transfer~~ Transfer agreements to address the transfer and receipt of trauma patients;
- (b) Programs for physicians within the community and within the referral area (~~to that include~~ telephone and on-site consultations) about how to access the trauma center resources and refer patients within the system;
- (c) Development of a Regional Advisory Committee (~~RAC~~) as specified in Rule .1102 of this Subchapter;
- (d) Development of regional criteria for coordination of trauma care;
- (e) Assessment of trauma system operations at the regional level; and
- (f) ATLS.
- (29) A program of injury prevention and public education ~~to include; that includes:~~ that includes:
- (a) Epidemiology research ~~to include that includes~~ includes studies in injury control, collaboration with other institutions on research, monitoring progress of prevention programs, and consultation with qualified researchers on evaluation measures;
- (b) Surveillance methods ~~to include that includes~~ includes trauma registry data, special Emergency Department and field collection projects;
- (c) Designation of a injury prevention coordinator; and
- (d) Outreach activities, program development, information resources, and collaboration with existing national, regional, and state trauma programs.
- (30) A trauma research program designed to produce new knowledge applicable to the care of injured patients ~~to include; that includes:~~ that includes:
- (a) ~~Identifiable~~ An identifiable institutional review board process;
- (b) Extramural educational presentations that must include 12 education/outreach presentations over a three-year period; and
- (c) 10 peer-reviewed publications over a three-year period that could come from any aspect of the trauma program.
- (31) A documented continuing education program for staff physicians, nurses, allied health personnel, and community physicians ~~to include; that includes:~~ that includes:
- (a) A general surgery residency program;
- (b) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical Education) every two years for all attending general surgeons on the trauma service, orthopaedists, and neurosurgeons, with at least ~~50%~~ 50 percent of this being extramural;
- (c) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical Education) every two years for all emergency physicians, with at least ~~50%~~ 50 percent of this being extramural;
- (d) ~~Advanced Trauma Life Support (ATLS)~~ ATLS completion for general surgeons on the trauma service and emergency physicians. Emergency physicians, if not boarded in emergency medicine, must be current in ATLS;
- (e) 20 contact hours of trauma-related continuing education (beyond in-house in-services) every two years for

- the ~~trauma nurse coordinator/program manager; TNC/TPM;~~
- (f) 16 hours of trauma-registry-related or trauma-related continuing education every two years, as deemed appropriate by the trauma nurse coordinator/program manager for the trauma registrar;
 - (g) At least an ~~80%~~ 80 percent compliance rate for 16 hours of trauma-related continuing education (as approved by the ~~trauma nurse coordinator/program manager~~) TNC/TPM every two years related to trauma care for RN's and LPN's in transport programs, Emergency Departments, primary intensive care units, primary trauma floors, and other areas deemed appropriate by the ~~trauma nurse coordinator/program manager; TNC/TPM;~~ and
 - (h) 16 hours of trauma-related continuing education every two years for mid-level practitioners routinely caring for trauma patients.
- (4) A full-time trauma nurse coordinator (~~TNC~~)/~~program manager (TPM)~~ TNC/TPM who is a registered nurse, licensed by the North Carolina Board of Nursing;
 - (5) A full-time ~~trauma registrar (TR)~~ TR who has a working knowledge of medical terminology, is able to operate a personal computer, and has ~~demonstrated~~ the ability to extract data from the medical record;
 - (6) A hospital department/division/section for general surgery, neurological surgery, emergency medicine, anesthesiology, and orthopaedic surgery, with designated chair or physician liaison to the trauma program for each;
 - (7) Clinical capabilities in general surgery with ~~two~~ separate posted call schedules. One shall be for trauma, one for general ~~surgery~~ surgery and a back-up call schedule for trauma. In those instances where a physician may simultaneously be listed on both schedules, there must be a defined back-up surgeon listed on the schedule to allow the trauma surgeon to provide care for the trauma patient. ~~The trauma service director shall specify, in writing, the specific credentials that each back-up surgeon must have. These must state that the back-up surgeon has surgical privileges at the trauma center and is boarded or eligible in general surgery (with board certification in general surgery within five years of completing residency).~~ If a trauma surgeon is simultaneously on call at more than one hospital, there shall be a defined, posted trauma surgery back-up call schedule composed of surgeons credentialed to serve on the trauma panel.
 - (8) Response of a trauma team to provide evaluation and treatment of a trauma patient 24 hours per day that includes:
 - (a) ~~A An in-house trauma attending whose presence at the patient's bedside within 20 minutes of notification is documented and who participates in therapeutic decisions and is present at all operative procedures; or PGY4 or senior general surgical resident. The trauma attending participates in therapeutic decisions and is present at all operative procedures.~~
 - (b) An emergency physician who is present in the Emergency Department 24 hours per day who is either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine) or board-

Authority G.S. 131E-162.

10A NCAC 13P .0902 LEVEL II TRAUMA CENTER CRITERIA

To receive designation as a Level II Trauma Center, a hospital shall have the following:

- (1) A trauma program and a trauma service that have been operational for at least ~~six~~ 12 months prior to application for designation;
- (2) Membership in and inclusion of all trauma patient records in the North Carolina Trauma Registry for at least ~~six~~ 12 months prior to submitting a Request for Proposal;
- (3) A trauma medical director who is a board-certified general surgeon. The trauma medical director must:
 - (a) Have at least three years clinical experience on a trauma service or trauma fellowship training;
 - (b) Serve on the center's trauma service;
 - (c) Participate in providing care to patients with life-threatening urgent injuries;
 - (d) Participate in the North Carolina Chapter of the ACS' Committee on Trauma as well as other regional and national trauma organizations; and
 - (e) Remain a current provider in the ACS' ~~Advanced Trauma Life Support Course~~ ATLS and in the provision of trauma-related instruction to other health care personnel.

- certified or eligible by the American Board of Surgery, American Board of Family Practice, or American Board of Internal Medicine and practices emergency medicine as his primary specialty. This emergency physician if prepared or eligible must be board-certified within five years after successful completion of the residency and serves as a designated member of the trauma team to ensure immediate care for the injured patient until the arrival of the trauma surgeon;
- (c) Neurosurgery specialists who are never simultaneously on-call at another Level II or higher trauma center, who are promptly available, if requested by the trauma team leader, as long as there is either an in-house attending neurosurgeon; a ~~Post Graduate Year 2 (PGY2)~~ PGY2 or higher in-house neurosurgery resident; or in-house emergency physician or the on-call trauma surgeon as long as the institution can document management guidelines and annual continuing medical education for neurosurgical emergencies. There must be a specified ~~written~~ back-up on the call schedule whenever the neurosurgeon is simultaneously on-call at a hospital other than the trauma center; and
- (d) Orthopaedic surgery specialists who are never simultaneously on-call at another Level II or higher trauma center, who are promptly available, if requested by the trauma team leader, as long as there is either an in-house attending orthopaedic surgeon; a ~~Post Graduate Year 2 (PGY2)~~ PGY2 or higher in-house orthopaedic surgery resident; or in-house emergency physician or the on-call trauma surgeon as long as the institution can document management guidelines and annual continuing medical education for orthopaedic emergencies. There must be a specified ~~written~~ back-up on the call schedule whenever the orthopaedic surgeon is simultaneously on-call at a hospital other than the trauma center; and
- (e) An in-house anesthesiologist or a ~~Clinical Anesthesiology Year 3 (CA3)~~ CA3 resident unless an anesthesiologist on-call is advised and promptly available after notification or an in-house CRNA under physician supervision, practicing in accordance with G.S. 90-171.20(7)e, pending the arrival of the anesthesiologist.
- (9) A ~~written~~ credentialing process established by the Department of Surgery to approve mid-level practitioners and attending general surgeons covering the trauma service. The surgeons must have board certification in general surgery within five years of completing residency;
- (10) Neurosurgeons and orthopaedists serving the trauma service who are currently board certified or eligible. Those who are eligible must be board certified within five years after successful completion of the residency;
- (11) ~~Standard written~~ Written protocols relating to trauma care management formulated and ~~routinely updated;~~ updated to remain current;
- (12) Criteria to ensure team activation prior to ~~arrival~~ arrival, and attending arrival within 15 minutes of the arrival of trauma/burn trauma and burn patients to that include the following:
following conditions:
- (a) Shock;
 - (b) Respiratory distress;
 - (c) Airway compromise;
 - (d) Unresponsiveness (~~Glasgow Coma Scale (GSC) less than eight eight~~) with potential for multiple injuries; ~~and~~
 - (e) Gunshot wound to head, neck, or ~~torso;~~ torso;
 - (f) Patients receiving blood to maintain vital signs; and
 - (g) ED physician's decision to activate.
- (13) Surgical evaluation, based upon the following criteria, by the health professional who is promptly available:
- (a) Proximal amputations;
 - (b) Burns meeting institutional transfer criteria;
 - (c) Vascular compromise;
 - (d) Crush to chest or pelvis;
 - (e) Two or more proximal long bone fractures; and
 - (f) Spinal cord injury.
- (14) Surgical consults, based upon the following criteria, by the health professional who is promptly available:
- (a) Falls greater than 20 feet;
 - (b) Pedestrian struck by motor vehicle;
 - (c) Motor vehicle crash with:
 - (i) Ejection (includes motorcycle);
 - (ii) Rollover;
 - (iii) Speed greater than 40 mph; or

- (iv) Death of another individual ~~at the scene; in the same vehicle;~~
- (d) Extremes of age, less than five or greater than 70 years;
- (15) Clinical capabilities (promptly available if requested by the trauma team leader, with a posted on-call schedule), ~~to~~ that include individuals credentialed in the following:
 - (a) Critical care;
 - (b) Hand surgery;
 - (c) Neurosurgery (The neurosurgeon must be dedicated to one hospital or a back-up call schedule must be available. If fewer than 25 emergency neurosurgical trauma operations are done in a year, and the neurosurgeon is dedicated only to that hospital, then a published back-up call list is not necessary.);
 - (d) Obstetrics/gynecologic surgery;
 - (e) Ophthalmic surgery;
 - (f) Oral maxillofacial ~~surgery;~~ surgery (may be fulfilled by a combination of ENT, Plastic, or OMF specialties);
 - (g) Orthopaedics (dedicated to one hospital or a back-up call schedule must be available);
 - (h) Plastic surgery;
 - (i) Radiology;
 - (j) Thoracic surgery; and
 - (k) Urologic surgery.
- (16) An Emergency Department that has:
 - (a) A ~~designated~~ physician director who is board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine);
 - (b) 24-hour-per-day staffing by physicians physically present in the Emergency Department who:
 - (i) Are either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine or board-certified or eligible by the American Board of Surgery, American Board of Family Practice, or American Board of Internal Medicine). These emergency physicians must be board-certified within five years
- after successful completion of a residency;
- (ii) Are designated members of the trauma team; and
- (iii) Practice emergency medicine as their primary specialty.
- (c) Nursing personnel with experience in trauma care who continually monitor the trauma patient from hospital arrival to disposition to an intensive care unit, operating room, or patient care unit;
- (d) Equipment for patients of all ages ~~to include;~~ that includes:
 - (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask resuscitators, pocket masks, and oxygen);
 - (ii) Pulse oximetry;
 - (iii) End-tidal carbon dioxide determination equipment;
 - (iv) Suction devices;
 - (v) ~~Electrocardiograph-oscilloscope-defibrillator~~ An electrocardiograph-oscilloscope-defibrillator with internal paddles;
 - (vi) ~~Apparatus~~ An apparatus to establish central venous pressure monitoring;
 - (vii) Intravenous fluids and administration devices ~~to~~ that include large bore catheters and intraosseous infusion devices;
 - (viii) Sterile surgical sets for airway control/cricothyrotomy, thoracotomy, vascular access, thoracostomy, peritoneal lavage, and central line insertion;
 - (ix) ~~Apparatus~~ An apparatus for gastric decompression;
 - (x) 24-hour-per-day x-ray capability;
 - (xi) Two-way communication equipment for communication with the emergency transport system;
 - (xii) Skeletal traction devices, including capability for cervical traction;
 - (xiii) Arterial catheters;
 - (xiv) Thermal control equipment for patients;

- (xv) Thermal control equipment for blood and fluids;
 - (xvi) ~~Rapid~~ A rapid infuser system;
 - (xvii) ~~Broselow tape;~~ A dosing reference and measurement system to ensure appropriate age related medical care;
 - (xviii) Sonography; and
 - (xix) ~~Doppler.~~ A doppler.
- (17) An operating suite that is immediately available 24 hours per day and has:
- (a) 24-hour-per-day immediate availability of in-house staffing;
 - (b) Equipment for patients of all ages ~~to include:~~ that includes:
 - (i) Thermal control equipment for patients;
 - (ii) Thermal control equipment for blood and fluids;
 - (iii) 24-hour-per-day x-ray capability, including c-arm image intensifier;
 - (iv) Endoscopes and bronchoscopes;
 - (v) Craniotomy instruments;
 - (vi) ~~Capability~~ The capability of fixation of long-bone and pelvic fractures; and
 - (vii) ~~Rapid~~ A rapid infuser system.
- (18) A postanesthetic recovery room or surgical intensive care unit that has:
- (a) 24-hour-per-day in-house staffing by registered nurses;
 - (b) Equipment for patients of all ages to include:
 - (i) Capability for resuscitation and continuous monitoring of temperature, hemodynamics, and gas exchange;
 - (ii) Capability for continuous monitoring of intracranial pressure;
 - (iii) Pulse oximetry;
 - (iv) End-tidal carbon dioxide determination capability;
 - (v) Thermal control equipment for patients; and
 - (vi) Thermal control equipment for blood and fluids.
- (19) An intensive care unit for trauma patients that has:
- (a) A designated surgical director of trauma patients;
 - (b) A physician on duty in the intensive care unit 24 hours per day or immediately available from within
- the hospital as long as this physician is not the sole physician on-call for the Emergency Department;
- (c) Ratio of one nurse per two patients on each shift;
 - (d) Equipment for patients of all ages ~~to include:~~ that includes:
 - (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask resuscitators, and pocket masks);
 - (ii) ~~Oxygen~~ An oxygen source with concentration controls;
 - (iii) ~~Cardiac~~ A cardiac emergency cart;
 - (iv) ~~Temporary~~ A temporary transvenous pacemaker;
 - (v) ~~Electrocardiograph-oscilloscope-defibrillator~~ An electrocardiograph-oscilloscope-defibrillator with internal paddles;
 - (vi) Cardiac output monitoring capability;
 - (vii) Electronic pressure monitoring capability;
 - (viii) ~~Mechanical~~ A mechanical ventilator;
 - (ix) Patient weighing devices;
 - (x) Pulmonary function measuring devices;
 - (xi) Temperature control devices; and
 - (xii) Intracranial pressure monitoring devices.
 - (e) Within 30 minutes of request, the ability to perform blood gas measurements, hematocrit level, and chest x-ray studies.
- (20) Acute hemodialysis capability or utilization of a ~~written~~ transfer agreement;
- (21) Physician-directed burn center staffed by nursing personnel trained in burn care or a written transfer agreement with a burn center;
- (22) Acute spinal cord management capability or ~~written~~ transfer agreement with a hospital capable of caring for a spinal cord injured patient;
- (23) Radiological capabilities that include:
- (a) 24-hour-per-day in-house radiology technologist;
 - (b) 24-hour-per-day in-house computerized tomography technologist;
 - (c) Sonography;
 - (d) Computed tomography;
 - (e) Angiography; and

- (f) Resuscitation equipment ~~to include~~ that includes airway management and IV therapy.
- (24) Respiratory therapy services available in-house 24 hours per day;
- (25) 24-hour-per-day clinical laboratory service that must include:
- (a) ~~Standard analysis~~ Analysis of blood, urine, and other body fluids, including micro-sampling when appropriate;
- (b) Blood-typing and cross-matching;
- (c) Coagulation studies;
- (d) Comprehensive blood bank or access to a community central blood bank with storage facilities;
- (e) Blood gases and pH determination; and
- (f) Microbiology.
- (26) A rehabilitation service that provides:
- (a) A staff trained in rehabilitation care of critically injured patients;
- (b) For major trauma patients, functional assessment and recommendation regarding short- and long-term rehabilitation needs within one week of the patient's admission to the hospital or as soon as hemodynamically stable;
- (c) ~~Full in-house~~ In-house rehabilitation service or a ~~written~~ transfer agreement with a rehabilitation facility accredited by the Commission on Accreditation of Rehabilitation Facilities;
- (d) Physical, occupational, speech therapies, and social services; and
- (e) Substance abuse evaluation and counseling capability.
- (27) A performance improvement program, as outlined in the North Carolina Chapter of the American College of Surgeons Committee on Trauma document "Performance Improvement Guidelines for North Carolina Trauma Centers," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. This performance improvement program must include:
- (a) The ~~trauma registry state Trauma Registry agreed to by the North Carolina State Trauma Advisory Committee and OEMS~~ whose data is submitted to the OEMS at least ~~quarterly~~ weekly and includes all the center's trauma patients as defined in Rule ~~.0801(33)~~ .0102(57) of this Subchapter who are either diverted to an affiliated hospital, admitted to the trauma center for greater than ~~23:59 hours (24 hours or more)~~ 24 hours from an ED or hospital, die in the ED, are DOA or are transferred from the ED to the OR, ICU, or another hospital (including transfer to any affiliated hospital);
- (b) Morbidity and mortality reviews ~~to~~ that include all trauma deaths;
- (c) Trauma performance committee that meets at least ~~quarterly, to include~~ quarterly and includes physicians, nurses, pre-hospital personnel, and a variety of other healthcare providers, and reviews policies, procedures, and system issues and whose members or designee attends at least ~~50%~~ 50 percent of the regular meetings;
- (d) Multidisciplinary peer review committee that meets at least quarterly and includes physicians from trauma, neurosurgery, orthopaedics, emergency medicine, anesthesiology, and other specialty physicians, as needed, specific to the case, and the ~~trauma nurse coordinator/program manager~~ TNC/TPM and whose members or designee attends at least ~~50%~~ 50 percent of the regular meetings;
- (e) Identification of discretionary and non-discretionary audit filters;
- (f) Documentation and review of times and reasons for trauma-related diversion of patients from the scene or referring hospital;
- (g) Documentation and review of response times for trauma surgeons, neurosurgeons, anesthesiologists or airway managers, and orthopaedists. All must demonstrate ~~80%~~ 80 percent compliance;
- (h) Monitoring of trauma team notification times;
- (i) Review of pre-hospital trauma care to include dead-on-arrivals; and
- (j) Review of times and reasons for transfer of injured patients.
- (28) An outreach program ~~to include:~~ that includes:
- (a) ~~Written transfer~~ Transfer agreements to address the transfer and receipt of trauma patients;
- (b) Programs for physicians within the community and within the referral area (~~to that~~ include telephone and on-site consultations) about how to

- (c) access the trauma center resources and refer patients within the system;
 - (d) Development of a Regional Advisory Committee (~~RAC~~) as specified in Rule .1102 of this Subchapter;
 - (e) Development of regional criteria for coordination of trauma care; and
 - (e) Assessment of trauma system operations at the regional level.
- (29) A program of injury prevention and public education ~~to include:~~ that includes:
- (a) Designation of an injury prevention coordinator; and
 - (b) Outreach activities, program development, information resources, and collaboration with existing national, regional, and state trauma programs.
- (30) A documented continuing education program for staff physicians, nurses, allied health personnel, and community physicians ~~to include:~~ that includes:
- (a) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical Education) every two years for all attending general surgeons on the trauma service, orthopaedics, and neurosurgeons, with at least ~~50%~~ 50 percent of this being extramural;
 - (b) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical Education) every two years for all emergency physicians, with at least ~~50%~~ 50 percent of this being extramural;
 - (c) ~~Advanced Trauma Life Support (ATLS)~~ ATLS completion for general surgeons on the trauma service and emergency physicians. Emergency physicians, if not boarded in emergency medicine, must be current in ATLS.
 - (d) 20 contact hours of trauma-related continuing education (beyond in-house in-services) every two years for the ~~trauma nurse coordinator/program manager;~~ TNC/TPM;
 - (e) 16 hours of trauma-registry-related or trauma-related continuing education every two years, as deemed appropriate by the ~~trauma nurse coordinator/program manager;~~ TNC/TPM, for the trauma registrar;
 - (f) at least ~~80%~~ 80 percent compliance rate for 16 hours of trauma-related

continuing education (as approved by the ~~trauma nurse coordinator/program manager~~) TNC/TPM) every two years related to trauma care for RN's and LPN's in transport programs, Emergency Departments, primary intensive care units, primary trauma floors, and other areas deemed appropriate by the trauma nurse coordinator/program manager; and

(g) 16 contact hours of trauma-related continuing education every two years for mid-level practitioners routinely caring for trauma patients.

Authority G.S. 131E-162.

10A NCAC 13P .0903 LEVEL III TRAUMA CENTER CRITERIA

To receive designation as a Level III Trauma Center, a hospital shall have the following:

- (1) A trauma program and a trauma service that have been operational for at least ~~six~~ 12 months prior to application for designation;
- (2) Membership in and inclusion of all trauma patient records in the North Carolina Trauma Registry for at least ~~six~~ 12 months prior to submitting a Request for Proposal application;
- (3) A trauma medical director who is a board-certified general surgeon. The trauma medical director must:
 - (a) Serve on the center's trauma service;
 - (b) Participate in providing care to patients with life-threatening or urgent injuries;
 - (c) Participate in the North Carolina Chapter of the ACS' Committee on Trauma;
 - (d) Remain a current provider in the ACS' ~~Advanced Trauma Life Support~~ ATLS Course in the provision of trauma-related instruction to other health care personnel.
- (4) A designated trauma nurse coordinator (~~TNC~~)/~~program manager~~ (~~TPM~~) TNC/TPM who is a registered nurse, licensed by the North Carolina Board of Nursing;
- (5) A ~~trauma registrar~~ (~~TR~~) TR who has a working knowledge of medical terminology, is able to operate a personal computer, and has ~~demonstrated~~ the ability to extract data from the medical record;
- (6) A hospital department/division/section for general surgery, emergency medicine, anesthesiology, and orthopaedic surgery, with designated chair or physician liaison to the trauma program for each;
- (7) Clinical capabilities in general surgery with a written posted call schedule that indicates who

- is on call for both trauma and general surgery. If a trauma surgeon is simultaneously on call at more than one hospital, there must be a defined, posted trauma surgery back-up call schedule composed of surgeons credentialed to serve on the trauma panel. The trauma service director shall specify, in writing, the specific credentials that each back-up surgeon must have. These must state that the back-up surgeon has surgical privileges at the trauma center and is boarded or eligible in general surgery (with board certification in general surgery within five years of completing residency).
- (8) Response of a trauma team to provide evaluation and treatment of a trauma patient 24 hours per day that includes:
- (a) A trauma attending whose presence at the patient's bedside within 30 minutes of notification is documented and who participates in therapeutic decisions and is present at all operative procedures;
 - (b) An emergency physician who is present in the ~~Emergency Department~~ ED 24 hours per day who is either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine) or board-certified or eligible by the American Board of Surgery, American Board of Family Practice, or American Board of Internal Medicine and practices emergency medicine as his primary specialty. This emergency physician if prepared or eligible must be board-certified within five years after successful completion of the residency and serve as a designated member of the trauma team to ensure immediate care for the trauma patient until the arrival of the trauma surgeon;
 - (c) An anesthesiologist who is on-call and promptly available after notification by the trauma team leader or an in-house CRNA under physician supervision, practicing in accordance with G.S. 90-171.20(7)e, pending the arrival of the anesthesiologist within ~~20~~ 30 minutes of notification.
- (9) A ~~written~~ credentialing process established by the Department of Surgery to approve mid-level practitioners and attending general surgeons covering the trauma service. The surgeons must have board certification in general surgery within five years of completing residency;
- (10) Current board certification or eligibility of ~~orthopaedists,~~ orthopaedists and neurosurgeons (if participating), with board certification within five years after successful completion of residency;
- (11) Standard ~~written—protocols~~ documented protocols/guidelines relating to trauma care management formulated and routinely ~~updated;~~ updated. Activation guidelines should reflect criteria that ensures patients receive timely and appropriate treatment including stabilization, intervention and transfer. Documentation of effectiveness of variances from activation criteria addressed in Items (12), (13), and (14) of this Rule must be available for review.
- (12) Criteria to ensure team activation prior to arrival of ~~trauma/burn~~ trauma and burn patients ~~to that include the following:~~ following conditions:
- (a) Shock;
 - (b) Respiratory distress;
 - (c) Airway compromise;
 - (d) Unresponsiveness (~~Glasgow Coma Scale (GSC~~ GSC less than eight) with ~~potential~~ evidence for multiple injuries; ~~and~~
 - (e) Gunshot wound to ~~head,~~ neck, or ~~torso;~~ torso; ~~and~~
 - (f) ED physician's decision to activate.
- (13) ~~Surgical evaluation,~~ Established Trauma Treatment Guidelines based on facility capabilities that ensure surgical evaluation or appropriate transfer, based upon the following criteria, by the health professional who is promptly available:
- (a) Proximal amputations;
 - (b) Burns meeting institutional transfer criteria;
 - (c) Vascular compromise;
 - (d) Crush to chest or pelvis;
 - (e) Two or more proximal long bone fractures; ~~and~~
 - (f) Spinal cord ~~injury.~~ injury; ~~and~~
 - (g) Gunshot wound to the head.
- (14) Surgical ~~consults,~~ consults or appropriate transfers determined by established Trauma Treatment Guidelines based on facility capabilities, based upon the following criteria, by the health professional who is promptly available:
- (a) Falls greater than 20 feet;
 - (b) Pedestrian struck by motor vehicle;
 - (c) Motor vehicle crash with:
 - (i) Ejection (includes motorcycle);

- (ii) Rollover;
 - (iii) Speed greater than 40 mph; or
 - (iv) Death of another individual ~~at the scene;~~ in the same vehicle;
- (15) (d) Extremes of age, less than five or greater than 70 years;
- (15) Clinical capabilities (promptly available if requested by the trauma team leader, with a posted on-call schedule) ~~to~~ that include individuals credentialed in the following:
- (a) Orthopaedics; ~~and~~
 - (b) ~~Radiology;~~ Radiology; and
 - (c) ~~Neurosurgery,~~ if actively participating in the acute resuscitation and operative management of patients managed by the trauma team.
- (16) An Emergency Department that has:
- (a) A ~~designated~~ physician director who is board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine);
 - (b) 24-hour-per-day staffing by physicians physically present in the Emergency Department who:
 - (i) Are either board-certified or prepared in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine) or board-certified or eligible by the American Board of Surgery, American Board of Family Practice, or American Board of Internal Medicine. These emergency physicians must be board-certified within five years after successful completion of a residency;
 - (ii) Are designated members of the trauma team; ~~and team to ensure immediate care to the trauma patient;~~ and
 - (iii) Practice emergency medicine as their primary specialty.
 - (c) Nursing personnel with experience in trauma care who continually monitor the trauma patient from hospital arrival to disposition to an intensive care unit, operating room, or patient care unit;
- (d) Resuscitation equipment for patients of all ages ~~to include;~~ that includes:
 - (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask resuscitators, pocket masks, and oxygen);
 - (ii) Pulse oximetry;
 - (iii) End-tidal carbon dioxide determination equipment;
 - (iv) Suction devices;
 - (v) ~~Electrocardiograph-oscilloscope-defibrillator~~ An Electrocardiograph-oscilloscope-defibrillator with internal paddles;
 - (vi) Apparatus to establish central venous pressure monitoring;
 - (vii) Intravenous fluids and administration devices ~~to~~ that include large bore catheters and intraosseous infusion devices;
 - (viii) Sterile surgical sets for airway control/cricothyrotomy, thoracotomy, vascular access, thoracostomy, peritoneal lavage, and central line insertion;
 - (ix) Apparatus for gastric decompression;
 - (x) 24-hour-per-day x-ray capability;
 - (xi) Two-way communication equipment for communication with the emergency transport system;
 - (xii) Skeletal traction devices;
 - (xiii) Thermal control equipment for patients; and
 - (xiv) Thermal control equipment for blood and fluids;
 - (xv) ~~Rapid~~ A rapid infuser system;
 - (xvi) ~~Broselow tape;~~ A dosing reference and measurement system to ensure appropriate age related medical care; and
 - (xvii) ~~Doppler.~~ A Doppler.
- (17) An operating suite that has:
- (a) Personnel available 24 hours a day, on-call, and available within 30 minutes of notification unless in-house;
 - (b) Age-specific equipment ~~to include;~~ that includes:

- (i) Thermal control equipment for patients;
 - (ii) Thermal control equipment for blood and fluids;
 - (iii) 24-hour-per-day x-ray capability, including c-arm image intensifier;
 - (iv) Endoscopes and bronchoscopes;
 - (v) Equipment for long bone and pelvic fracture fixation; and
 - (vi) ~~Rapid~~ A rapid infuser system.
- (18) A postanesthetic recovery room or surgical intensive care unit that has:
- (a) 24-hour-per-day availability of registered nurses within 30 minutes from inside or outside the hospital;
 - (b) Equipment for patients of all ages ~~to include:~~ that includes:
 - (i) ~~Capability~~ The capability for resuscitation and continuous monitoring of temperature, hemodynamics, and gas exchange;
 - (ii) Pulse oximetry;
 - (iii) End-tidal carbon dioxide determination;
 - (iv) Thermal control equipment for patients; and
 - (v) Thermal control equipment for blood and fluids.
- (19) An intensive care unit for trauma patients that has:
- (a) ~~A designated surgical director of trauma patients; trauma surgeon who actively participates in the committee overseeing the ICU;~~
 - (b) A physician on duty in the intensive care unit 24-hours-per-day or immediately available from within the hospital (which may be a physician who is the sole physician on-call for the ~~Emergency Department); ED);~~
 - (c) Equipment for patients of all ages ~~to include:~~ that includes:
 - (i) Airway control and ventilation equipment (laryngoscopes, endotracheal tubes, bag-mask resuscitators and pocket masks);
 - (ii) ~~Oxygen~~ An oxygen source with concentration controls;
 - (iii) ~~Cardiac~~ A cardiac emergency cart;
- (iv) ~~Temporary~~ A temporary transvenous pacemaker;
 - (v) ~~Electrocardiograph-oscilloscope defibrillator;~~ An electrocardiograph-oscilloscope-defibrillator;
 - (vi) Cardiac output monitoring capability;
 - (vii) Electronic pressure monitoring capability;
 - (viii) ~~Mechanical~~ A mechanical ventilator;
 - (ix) Patient weighing devices;
 - (x) Pulmonary function measuring devices; and
 - (xi) Temperature control devices.
- (d) Within 30 minutes of request, the ability to perform blood gas measurements, hematocrit level, and chest x-ray studies;
- (20) Acute hemodialysis capability or utilization of a written transfer agreement;
 - (21) Physician-directed burn center staffed by nursing personnel trained in burn care or a written transfer agreement with a burn center;
 - (22) Acute spinal cord management capability or ~~written~~ transfer agreement with a hospital capable of caring for a spinal cord injured patient;
 - (23) Acute head injury management capability or ~~written~~ transfer agreement with a hospital capable of caring for a head injury;
 - (24) Radiological capabilities that include:
 - (a) Radiology technologist and computer tomography technologist available within 30 minutes of notification or documentation that procedures are available within 30 minutes;
 - (b) Computed Tomography;
 - (c) Sonography; and
 - (d) Resuscitation equipment ~~to include~~ that includes airway management and IV therapy.
 - (25) Respiratory therapy services on-call 24 hours per day;
 - (26) 24-hour-per-day clinical laboratory service that must include:
 - (a) Standard analysis of blood, urine, and other body fluids, including micro-sampling when appropriate;
 - (b) Blood-typing and cross-matching;
 - (c) Coagulation studies;
 - (d) Comprehensive blood bank or access to a community central blood bank with storage facilities;
 - (e) Blood gases and pH determination; and
 - (f) Microbiology.

- (27) ~~Full in-house~~ In-house rehabilitation service or ~~written~~ transfer agreement with a rehabilitation facility accredited by the Commission on Accreditation of Rehabilitation Facilities;
- (28) Physical therapy and social services.
- (29) A performance improvement program, as outlined in the North Carolina Chapter of the American College of Surgeons Committee on Trauma document "Performance Improvement Guidelines for North Carolina Trauma Centers," incorporated by reference in accordance with G.S. 150B-21.6, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. This performance improvement program must include:
- (a) ~~The trauma registry state Trauma Registry agreed to by the North Carolina State Trauma Advisory Committee and OEMS,~~ whose data is submitted to the OEMS at least ~~quarterly~~ weekly and includes all the center's trauma patients as defined in ~~Rule .0801(33) .0102(57) of this Subchapter~~ who are either diverted to an affiliated hospital, admitted to the trauma center for greater than ~~23:59 hours (24 hours or more)~~ 24 hours from an ED or hospital, die in the ED, are DOA or are transferred from the ED to the OR, ICU, or another hospital (including transfer to any affiliated hospital);
- (b) Morbidity and mortality reviews ~~to include~~ including all trauma deaths;
- (c) Trauma performance committee that meets at least ~~quarterly, to include quarterly and includes~~ physicians, orthopaedics and neurosurgery if participating in trauma service, nurses, pre-hospital personnel, and a variety of other healthcare providers, and reviews policies, procedures, and system issues and whose members or designee attends at least ~~50%~~ 50 percent of the regular meetings;
- (d) Multidisciplinary peer review committee that meets at least quarterly and includes physicians from trauma, emergency medicine, and other specialty physicians as needed specific to the case, and the trauma nurse coordinator/program manager and whose members or designee attends at least ~~50%~~ 50 percent of the regular meetings;
- (e) Identification of discretionary and non-discretionary audit filters;
- (f) Documentation and review of times and reasons for trauma-related diversion of patients from the scene or referring hospital;
- (g) Documentation and review of response times for trauma surgeons, airway managers, and orthopaedists. All must demonstrate ~~80%~~ 80 percent compliance;
- (h) Monitoring of trauma team notification times;
- (i) Documentation (unless in-house) and review of Emergency Department response times for anesthesiologists or airway managers and computerized tomography technologist;
- (j) Documentation of availability of the surgeon on-call for trauma, such that compliance is ~~90%~~ 90 percent or greater where there is no trauma surgeon back-up call schedule;
- (k) Trauma performance and multidisciplinary peer review committees may be incorporated together or included in other staff meetings as appropriate for the facility performance improvement rules;
- (l) Review of pre-hospital trauma care ~~to include~~ including dead-on-arrivals; and
- (m) Review of times and reasons for transfer of injured patients.
- (30) An outreach program ~~to include:~~ that includes:
- (a) ~~Written transfer~~ Transfer agreements to address the transfer and receipt of trauma patients; and
- (b) Participation in a ~~Regional Advisory Committee (RAC); RAC.~~
- (31) Coordination or participation in community prevention activities;
- (32) A documented continuing education program for staff physicians, nurses, allied health personnel, and community physicians ~~to include:~~ that includes:
- (a) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical ~~Education~~ Education) every two years for all attending general surgeons on the trauma service, orthopaedists, and neurosurgeons if participating in trauma service, with at least ~~50%~~ 50 percent of this being extramural;
- (b) 20 hours of Category I or II trauma-related continuing medical education (as approved by the Accreditation Council for Continuing Medical

- ~~Education~~ Education) every two years for all emergency physicians, with at least ~~50%~~ 50 percent of this being extramural;
- (c) ~~Advanced Trauma Life Support (ATLS)~~ ATLS completion for general surgeons on the trauma service and emergency physicians. Emergency physicians, if not boarded in emergency medicine, must be current in ATLS;
 - (d) 20 contact hours of trauma-related continuing education (beyond in-house in- services) every two years for the ~~trauma nurse coordinator/program manager;~~ TNC/TPM;
 - (e) 16 hours of trauma-registry-related or trauma-related continuing education every two years, as deemed appropriate by the ~~trauma nurse coordinator/program manager;~~ TNC/TPM, for the trauma registrar;
 - (f) At least an ~~80%~~ 80 percent compliance rate for 16 hours of trauma-related continuing education (as approved by the trauma nurse coordinator/program manager) every two years related to trauma care for RN's and LPN's in transport programs, Emergency Departments, primary intensive care units, primary trauma floors, and other areas deemed appropriate by the trauma nurse coordinator/program manager; and
 - (g) 16 hours of trauma-related continuing education every two years for mid-level practitioners routinely caring for trauma patients.
- (2) Geographic considerations to include trauma primary and secondary catchment area and distance from other ~~trauma centers;~~ Trauma Centers; and
 - (3) ~~Trauma patient volume and severity of injury for the facility for the 24-month period of time preceding the application. The trauma center Evidence the Trauma Center shall will admit at least 1200 trauma patients yearly or show that its trauma service will be taking care of at least 200 240 trauma patients with an Injury Severity Score (ISS) greater than or equal to 15 during the first 2-year period of its designation. yearly.~~ This criteria shall be met without compromising the quality of care or cost effectiveness of any other designated Level I or II ~~trauma center~~ Trauma Center sharing all or part of its catchment area or by jeopardizing the existing ~~trauma center's~~ Trauma Center's ability to meet this same ~~200-patient~~ 240-patient minimum.
- (c) Following receipt of the letter of intent by OEMS, any designated Level I or II trauma center(s) sharing all or part of the applicant's catchment area must provide to OEMS a trauma registry download for the same two-year period used by the applicant. This download shall be provided within 30 days of the request of OEMS. The hospital must be actively participating in the state Trauma Registry and submit data to the OEMS at least weekly and include all the Trauma Center's trauma patients as defined in Rule .0102(57) of this Subchapter who are either diverted to an affiliated hospital, admitted to the Trauma Center for greater than 24 hours from an ED or hospital, die in the ED, are DOA or are transferred from the ED to the OR, ICU, or another hospital (including transfer to any affiliated hospital) a minimum of six months prior to application.
 - (d) OEMS shall review the regional Trauma Registry data, from both the applicant and the existing trauma center(s), and ascertain the applicant's ability to satisfy the justification of need information required in ~~Paragraphs (b)(1) — (3) Subparagraphs (b)(1) through (3)~~ of this Rule. Simultaneously, the applicant's primary RAC shall be notified of the application and be provided the regional data as required in ~~Paragraphs (b)(1) — (3) Subparagraphs (b)(1) through (3)~~ of this Rule submitted by the applicant for review and comment. The RAC shall be given a minimum of 30 days to submit any concerns in writing for OEMS' consideration. If no comments are received, OEMS shall proceed.
 - (e) OEMS shall notify the hospital in writing of its decision to allow submission of an RFP. The RAC shall also be notified by the OEMS so that any necessary changes in protocols can be considered.
 - (f) OEMS shall ~~also~~ notify the respective Board of County Commissioners in the applicant's trauma primary catchment area of the request for initial designation to allow for comment.
 - (g) Hospitals desiring to be considered for initial trauma center designation shall complete and submit ~~an original and five copies of bound, page numbered one paper copy with signatures and an electronic copy of the RFP~~ to the OEMS at least 90 days prior to the proposed site visit date.

Authority G.S. 131E-162.

10A NCAC 13P .0904 INITIAL DESIGNATION PROCESS

- (a) For initial ~~trauma center~~ Trauma Center designation, the hospital shall request a consult visit by OEMS and have the consult within one year prior to submission of the RFP.
- (b) A hospital interested in pursuing ~~trauma center~~ Trauma Center designation shall submit a letter of intent 180 days prior to the submission of an RFP to the OEMS. The letter shall ~~also~~ define the hospital's primary trauma catchment area. Simultaneously, Level I or II applicants shall also demonstrate the need for the ~~trauma center~~ Trauma Center designation by submitting one original and three copies of documents that include at a minimum:
 - (1) The population to be served and the extent to which the population is underserved for trauma care with the methodology used to reach this conclusion;

(h) For Level I, II, and III applicants, the RFP shall demonstrate that the hospital meets the standards for the designation level applied for as found in Rules .0901, .0902, or .0903 of this Section.

(i) If OEMS does not recommend a site visit, based upon failure to comply with Rules .0901, .0902, or .0903, the reasons shall be forwarded to the hospital in writing within 30 days of the decision. The hospital may reapply for designation within six months following the submission of an updated RFP. If the hospital fails to respond within six months, the hospital shall reapply following the process outlined in ~~Paragraphs (a) — (h)~~ Paragraphs (a) through (h) of this Rule.

(j) If the OEMS recommends the hospital for a site visit, the hospital shall be notified within 30 days and the site visit shall be conducted within six months of the recommendation. The site visit shall be scheduled on a date mutually agreeable to the hospital and the OEMS.

(k) Any in-state reviewer for a Level I or II visit (except the OEMS representatives) shall be from outside the planning region in which the hospital is located. The composition of a Level I or II state site survey team shall be as follows:

- (1) One out-of-state Fellow of the ACS, experienced as a site surveyor, who shall be designated the primary reviewer.
- (2) One emergency physician who currently works in a designated trauma center, is a member of the ~~North Carolina~~ American College of Emergency Physicians, and is boarded in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine),
- (3) One in-state trauma surgeon who is a member of the North Carolina Committee on Trauma;
- (4) One out-of-state trauma nurse coordinator/program ~~manager; manager and~~ one in-state trauma nurse coordinator/program manager; and
- (5) ~~The medical director of the OEMS; and OEMS Staff.~~
- (6) ~~The Hospitals Specialist of the OEMS.~~

(l) All site team members for a Level III visit shall be from in-state, and all (except for the OEMS representatives) shall be from outside the planning region in which the hospital is located. The composition of a Level III state site survey team shall be as follows:

- (1) One Fellow of the ACS, who is a member of the North Carolina Committee on Trauma and shall be designated the primary reviewer;
- (2) One emergency physician who currently works in a designated trauma center, is a member of the North Carolina College of Emergency Physicians, and is boarded in emergency medicine (by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine).
- (3) A trauma nurse coordinator/program manager; and

(4) ~~The medical director of the OEMS; and OEMS Staff.~~

(5) ~~The Hospitals Specialist of the OEMS.~~

(m) On the day of the site visit the hospital shall make available all requested patient medical charts.

(n) A post-conference report based on the consensus of the site review team ~~shall~~ will be given verbally during a summary conference. A written consensus report will be completed, to include a peer review report, by the primary reviewer and submitted to OEMS within 30 days of the site visit.

(o) The report of the site survey team and the staff recommendations shall be reviewed by the State Emergency Medical Services Advisory Council at its next regularly scheduled meeting which is more than 45 days following the site visit. Based upon the site visit report and the staff recommendation, the State Emergency Medical Services Advisory Council shall recommend to the OEMS that the request for ~~trauma center~~ Trauma Center designation be approved or denied.

(p) All criteria defined in Rule .0901, .0902, or .0903 of this Section shall be met for initial designation at the level requested. Initial designation shall not be granted if deficiencies exist.

(q) Hospitals with a deficiency(ies) ~~may~~ shall be given up to 12 months to demonstrate compliance. Satisfaction of deficiency(ies) may require an additional site visit. If compliance is not demonstrated within the time period, to be defined by OEMS, the hospital shall be required to submit a new application and updated RFP and follow the process outlined in ~~Paragraphs (a) — (h)~~ Paragraphs (a) through (h) of this Rule.

(r) The final decision regarding ~~trauma center~~ Trauma Center designation shall be rendered by the OEMS.

(s) The hospital ~~shall~~ will be notified, in writing, of the State Emergency Medical Services Advisory Council's and OEMS' final recommendation within 30 days of the Advisory Council meeting.

(t) If a trauma center changes its trauma program administrative structure (such that the trauma service, trauma medical director, trauma nurse coordinator/program manager ~~and/or or~~ or trauma registrar are relocated on the hospital's organizational chart) at any time, it shall notify OEMS of this change in writing within 30 days of the occurrence.

(u) Initial designation as a trauma center is valid for a period of three years.

Authority G.S. 131E-162; 143-509(3).

10A NCAC 13P .0905 RENEWAL DESIGNATION PROCESS

(a) One of two options may be utilized to achieve ~~trauma center~~ Trauma Center renewal:

- (1) Undergo a site visit conducted by OEMS to obtain a four-year renewal designation; or
- (2) Undergo a verification visit arranged by the ACS, in conjunction with OEMS, to obtain a ~~three-year~~ four-year renewal designation;

(b) For hospitals choosing Subparagraph (a)(1) of this Rule:

- (1) Prior to the end of the designation period, the OEMS shall forward to the hospital an RFP for completion. The hospital shall, within 10 days

- of receipt of the RFP, define for OEMS the ~~trauma-center's~~ Trauma Center's trauma primary catchment area. Upon this notification, OEMS shall notify the respective Board of County Commissioners in the applicant's trauma primary catchment area of the request for renewal to allow for comment.
- (2) Hospitals seeking a renewal of ~~trauma-center~~ Trauma Center designation shall complete and submit ~~an original and five copies of a bound, page numbered one paper copy and an electronic copy of the RFP~~ as directed by the OEMS to the OEMS and the specified site surveyors at least 30 days prior to the site visit. The RFP shall include information that supports compliance with the criteria contained in Rule .0901, .0902, or .0903 of this Section as it relates to the ~~trauma-center's~~ Trauma Center's level of designation.
 - (3) All criteria defined in Rule .0901, .0902, or .0903 of this Section, as relates to the ~~trauma-center's~~ Trauma Center's level of designation, shall be met for renewal designation.
 - (4) A site visit shall be conducted within 120 days prior to the end of the designation period. The site visit shall be scheduled on a date mutually agreeable to the hospital and the OEMS.
 - (5) The composition of a Level I or II site survey team shall be the same as that specified in Rule .0904(k) of this Section.
 - (6) The composition of a Level III site survey team shall be the same as that specified in Rule .0904(l) of this Section.
 - (7) On the day of the site visit the hospital shall make available all requested patient medical charts.
 - (8) A post-conference report based on consensus of the site review team shall be given verbally during the summary conference. A written consensus report shall be completed, to include a peer review report, by the primary reviewer and submitted to OEMS within 30 days of the site visit.
 - (9) The report of the site survey team and a staff recommendation shall be reviewed by the State Emergency Medical Services Advisory Council at its next regularly scheduled meeting which is more than 30 days following the site visit. Based upon the site visit report and the staff recommendation, the State Emergency Medical Services Advisory Council shall recommend to the OEMS that the request for ~~trauma-center~~ Trauma Center renewal be approved; approved with a contingency(ies) due to a deficiency(ies) requiring a focused review; approved with a contingency(ies) not due to a ~~deficiency(ies);~~ deficiency(ies) requiring a consultative visit; or denied.
 - (10) Hospitals with a deficiency(ies) have up to 10 working days prior to the State EMS Advisory Council meeting to provide documentation to demonstrate compliance. If the hospital has a deficiency that cannot be corrected in this period prior to the State EMS Advisory Council meeting, the hospital, instead of a four-year renewal, may be given a time period (up to 12 months) to demonstrate compliance and undergo a focused review, that may require an additional site visit. The hospital shall retain its ~~trauma-center~~ Trauma Center designation during the focused review period. If compliance is demonstrated within the prescribed time period, the hospital shall be granted its designation for the four-year period from the previous designation's expiration date. If compliance is not demonstrated within the time period, as specified by OEMS, the ~~trauma-center~~ Trauma Center designation shall not be renewed. To become redesignated, the hospital shall ~~be required to~~ submit an updated RFP and follow the initial applicant process outlined in Rule .0904 of this Section.
 - (11) The final decision regarding trauma center renewal shall be rendered by the OEMS.
 - (12) The hospital ~~shall~~ will be notified in writing of the State Emergency Medical Services Advisory Council's and OEMS' final recommendation within 30 days of the Advisory Council meeting.
 - (13) The four-year renewal date that may be eventually granted shall not be extended due to the focused review period.
 - ~~(14) Hospitals in the process of satisfying contingencies placed on them prior to December 31, 2001, shall be evaluated based on the rules that were in effect at the time of their renewal visit.~~
- (c) For hospitals choosing Subparagraph (a)(2) of this Rule:
- (1) At least six months prior to the end of the ~~trauma-center's~~ Trauma Center's designation period, the trauma center must notify the OEMS of its intent to undergo an ACS verification visit. It must simultaneously define in writing to the OEMS its trauma primary catchment area. ~~Trauma centers~~ Centers choosing this option must then comply with all the ACS' verification procedures, as well as any additional state criteria as outlined in Rule .0901, .0902, or .0903, as apply to their level of designation.
 - (2) If a ~~trauma-center~~ Trauma Center currently using the ACS' verification process chooses not to renew using this process, it must notify the OEMS at least six months prior to the end of its state trauma center designation period of its intention to exercise the option in Subparagraph (a)(1) of this Rule.

- (3) When completing the ACS' documentation for verification, the ~~trauma center~~ Trauma Center must ~~simultaneously submit two identical copies~~ ensure access to the ACS on-line PRO (pre-review questionnaire) to OEMS. The ~~trauma center~~ Trauma Center must simultaneously complete documents supplied by OEMS to verify compliance with additional North Carolina criteria (i.e., criteria that exceed the ACS criteria) and forward these to OEMS and the ACS.
- (4) The OEMS shall notify the Board of County Commissioners within the trauma center's trauma primary catchment area of the ~~trauma center's~~ Trauma Center's request for renewal to allow for comments.
- (5) The ~~trauma center~~ Trauma Center must make sure the site visit is scheduled to ensure that the ACS' final written report, accompanying medical record reviews and cover letter are received by OEMS at least 30 days prior to a regularly scheduled State Emergency Medical Services Advisory Council meeting to ensure that the ~~trauma center's~~ Trauma Center's state designation period does not terminate without consideration by the State Emergency Medical Services Advisory Council.
- (6) The composition of the Level I or Level II site team must be as specified in Rule .0904(k) of this Section, except that both the required trauma surgeons and the emergency physician may be from out-of-state. Neither North Carolina Committee on Trauma nor North Carolina College of Emergency Physician membership ~~shall be~~ is required of the surgeons or emergency physician, respectively, if from out-of-state. The date, time, and all site team members must be pre-approved by the OEMS at least 30 days prior to the site visit.
- (7) The composition of the Level III site team must be as specified in Rule .0904(l) of this Section, except that the trauma surgeon, emergency physician, and trauma nurse coordinator/program manager may be from out-of-state. Neither North Carolina Committee on Trauma nor North Carolina College of Emergency Physician membership ~~shall be~~ is required of the surgeon or emergency physician, respectively, if from out-of-state. The date, time, and all site team members must be pre-approved by the OEMS at least 30 days prior to the site visit.
- (8) All state ~~trauma center~~ Trauma Center criteria must be met as defined in Rules .0901, .0902, and ~~0903~~, .0903 of this Section, for renewal of state designation. An ACS' verification is not required for state designation. An ACS' verification does not ensure a state designation.
- ~~(9)~~ ACS reviewers shall complete the state designation preliminary reporting form immediately prior to the post conference meeting. This document and the ACS final written report and supporting documentation described in Paragraph (10) of this Rule shall be used to generate a staff summary of findings report following the post conference meeting for presentation to the NC EMS Advisory Council for redesignation.
- ~~(9)~~(10) The final written report issued by the ACS' verification review committee, the accompanying medical record reviews (from which all identifiers may be removed), and cover letter must be forwarded to OEMS within 10 working days of its receipt by the ~~trauma center~~ Trauma Center seeking renewal.
- ~~(10)~~(11) ~~The written reports from the ACS and the OEMS staff recommendation shall be reviewed by~~ The OEMS shall present its summary of findings report to the State Emergency Medical Services Advisory Council at its next regularly scheduled meeting. The State EMS Advisory Council shall recommend to the Chief of the OEMS that the request for ~~trauma center~~ Trauma Center renewal be approved; approved with a contingency(ies) due to a deficiency(ies) requiring a focused review; approved with a contingency(ies) not due to a deficiency(ies); or denied.
- ~~(11)~~(12) The hospital ~~shall~~ will be notified in writing of the State Emergency Medical Services Advisory Council's and OEMS' final recommendation within 30 days of the Advisory Council meeting.
- ~~(12)~~(13) Hospitals with contingencies, as the result of a deficiency(ies), as determined by OEMS, have up to 10 working days prior to the State EMS Advisory Council meeting to provide documentation to demonstrate compliance. If the hospital has a deficiency that cannot be corrected in this time period prior to the State EMS Advisory Council meeting, the hospital, instead of a four-year renewal, may undergo a focused review (to be conducted by the OEMS) whereby the ~~trauma center~~ Trauma Center may be given up to 12 months to demonstrate compliance. Satisfaction of contingency(ies) may require an additional site visit. The hospital shall retain its ~~trauma center~~ Trauma Center designation during the focused review period. If compliance is demonstrated within the prescribed time period, the hospital shall be granted its designation for the four-year period from the previous designation's expiration date. If

compliance is not demonstrated within the time period, as specified by OEMS, the ~~trauma center~~ Trauma Center designation shall not be renewed. To become redesignated, the hospital shall ~~be required to~~ submit a new RFP and follow the initial applicant process outlined in Rule .0904 of this Section.

Authority G.S. 131E-162; 143-509(3).

SECTION .1000 – TRAUMA CENTER DESIGNATION ENFORCEMENT

10A NCAC 13P .1001 DENIAL, FOCUSED REVIEW, VOLUNTARY WITHDRAWAL, OR REVOCATION OF TRAUMA CENTER DESIGNATION

~~(a) The OEMS may deny the initial or renewal designation (without first allowing a focused review) of a trauma center for any of the following reasons:~~

- ~~(1) Failure to comply with G.S. 131E 162 and the rules adopted under that article; or~~
- ~~(2) Attempting to obtain a trauma center designation through fraud or misrepresentation; or~~
- ~~(3) Endangerment to the health, safety, or welfare of patients cared for in the hospital; or~~
- ~~(4) Repetition of contingencies placed on the trauma center in previous site visits.~~

~~(b) When a trauma center is required to have a focused review, an option only for a trauma center seeking renewal, it must be able to demonstrate compliance with the provisions of G.S.131E 162 and the rules adopted under that article within one year or less as required and delineated in writing by OEMS.~~

~~(c) The OEMS may revoke a trauma center designation at any time or deny a request for renewal of designation, whenever the OEMS finds that the trauma center has failed to comply with the provisions of G.S. 131E 162 and the rules adopted under that article; and~~

- ~~(1) It is not probable that the trauma center can remedy the deficiencies within one year or less; or~~
- ~~(2) Although the trauma center may be able to remedy the deficiencies within a reasonable period of time, it is not probable that the trauma center shall be able to remain in compliance with designation rules for the foreseeable future; or~~
- ~~(3) The trauma center fails to meet the requirements of a focused review; or~~
- ~~(4) Failure to comply endangers the health, safety, or welfare of patients cared for in the trauma center.~~

~~(d) The OEMS shall give the trauma center written notice of revocation. This notice shall be given personally or by certified mail and shall set forth:~~

- ~~(1) The factual allegations;~~
- ~~(2) The statutes or rules alleged to be violated; and~~

~~(3) Notice of the hospital's right to a contested case hearing on the amendment of the designation.~~

~~(e) Focused review is not a procedural prerequisite to the revocation of a designation pursuant to Paragraph (d) of this Rule.~~

~~(f) With the OEMS' approval, a trauma center may voluntarily withdraw its designation for a maximum of one year by submitting a written request. This request shall include the reasons for withdrawal and a plan for resolution of the issues. To reactivate the designation, the facility shall provide written documentation of compliance that is acceptable to the OEMS. Voluntary withdrawal shall not affect the original expiration date of the trauma center's designation.~~

~~(g) If the trauma center fails to resolve the issues which resulted in a voluntary withdrawal within the specified time period for resolution, the OEMS may revoke the trauma center designation.~~

~~(h) In the event of a revocation or voluntary withdrawal, the OEMS shall provide written notification to all hospitals and emergency medical services providers within the trauma center's defined trauma primary catchment area. The OEMS shall provide written notification to same if, and when, the voluntary withdrawal reactivates to full designation.~~

Authority G.S. 131E-162.

10A NCAC 13P .1002 PROCEDURES FOR APPEAL OF DENIAL, FOCUSED REVIEW, OR REVOCATION

~~Appeal of denial or revocation of a trauma center designation shall follow the law regarding contested cases found in G.S. 150B.~~

Authority G.S. 131E-162.

SECTION .1100 – TRAUMA SYSTEM DESIGN

10A NCAC 13P .1101 STATE TRAUMA SYSTEM

(a) The state trauma system consists of regional plans, policies, guidelines and performance improvement initiatives by the RACs to create an Inclusive Trauma System and monitored by the OEMS.

(b) The OEMS shall require that each Each hospital and EMS System shall select a Regional Advisory Committee (RAC), affiliate and participate with the RAC that includes the Level I or II Trauma Center in which the majority of trauma patient referrals and transports occur. If a hospital does not exist in a given county, the EMS System for the county shall select the RAC. Patient transfer patterns from data sources must be submitted to the OEMS that support each hospital's and each EMS System's choice of primary affiliation. Each RAC shall include at least one Level I or II trauma center. Trauma Center. Any hospital changing its affiliation shall report the change in writing to the OEMS within 30 days of the date of the change.

(c) The OEMS shall notify each RAC of its hospital and county EMS System membership.

(d) Each hospital and each EMS System must update and submit its RAC affiliation information to the OEMS no later than July 1 of each year. RAC affiliation may only be changed during this annual update and only if supported by a change in

transfer patterns. Documentation detailing these new transfer patterns must be included in the request to change affiliation.

Authority G.S. 131E-162.

10A NCAC 13P .1102 REGIONAL TRAUMA SYSTEM PLAN

(a) A Level I or II ~~trauma center~~ Trauma Center shall facilitate development of and provide RAC staff support that shall include, at a minimum, the following:

- (1) The trauma medical director(s) from the lead RAC agency;
- (2) Trauma nurse coordinator(s) or program manager(s) from the lead RAC ~~agency.~~ agency; and
- (3) An individual to coordinate RAC activities.

(b) The RAC membership shall include, at a minimum, the following:

- (1) The trauma medical director(s) and the trauma nurse coordinator(s) or program manager(s) from the lead RAC agency;
- (2) If on staff, an outreach ~~coordinator(s)~~ coordinator(s), injury prevention coordinator(s) or designee(s), as well as an identified RAC registrar or designee(s) from the lead RAC agency;
- (3) A senior level hospital administrator;
- (4) An emergency physician;
- (5) ~~An Emergency Medical Services representative;~~ A representative from each EMS system participating in the RAC;
- (6) A representative from each hospital participating in the RAC;
- (7) Community representatives;
- (8) An EMS System physician involved in medical oversight.

(c) The RAC shall develop and submit a plan within one year of notification of the RAC membership, or for existing RACs within six months of the implementation date of this rule, to the OEMS containing at a minimum:

- (1) Organizational structure to include the roles of the members of the system;
- (2) Goals and objectives to include the orientation of the providers to the regional system;
- (3) RAC membership list, rules of order, terms of office, meeting schedule (held at a minimum of two times per year);
- (4) Copies of documents and information required by the OEMS as defined in Rule .1103 of this Section;
- (5) System evaluation tools to be utilized;
- (6) Written documentation of regional support for the plan; and
- (7) Performance improvement activities to include ~~the RAC Registry.~~ utilization of patient care data.

(d) The RAC shall submit to the OEMS an annual progress report no later than July 1 of each year that assesses compliance

with the regional trauma system plan and specifies any updates to the plan.

(e) Upon OEMS' receipt of a letter of intent for initial Level I or II ~~trauma center~~ Trauma Center designation pursuant to Rule .0904 (b) of this Subchapter, the applicant's RAC shall be provided the applicant's data from OEMS to review and comment. ~~This data which should demonstrate the need for the trauma center designation must include at a minimum:~~

- (1) ~~The population to be served and the extent to which the population is underserved for trauma care with the methodology used to reach this conclusion;~~
- (2) ~~Geographic considerations to include trauma primary and secondary catchment area and distance from other trauma centers; and~~
- (3) ~~Trauma patient volume and severity of injury for the facility for the 24 month period of time preceding the application. The trauma center shall show that its trauma service will be taking care of at least 200 trauma patients with an Injury Severity Score (ISS) greater than or equal to 15 during the first two year period of its designation. This criteria shall be met without compromising the quality of care or cost effectiveness of any other designated Level I or II trauma center sharing all or part of its catchment area or by jeopardizing the existing trauma center's ability to meet this same 200 patient minimum.~~

(f) The RAC has 30 days to comment on the request for initial designation.

(g) The RAC ~~shall also~~ will be notified of the OEMS approval to submit an RFP so that necessary changes in protocols can be considered.

Authority G.S. 131E-162.

10A NCAC 13P .1103 REGIONAL TRAUMA SYSTEM POLICY DEVELOPMENT

The RAC shall oversee the development, implementation, and evaluation of the regional trauma system ~~to include:~~ that includes:

- (1) ~~Public~~ A public information and education ~~programs~~ program to include system access and injury prevention;
- (2) Written trauma system guidelines ~~to address~~ addressing the following:
 - (a) Regional communications;
 - (b) Triage;
 - (c) Treatment at the ~~scene~~ accident scene, and in the pre-hospital, inter-hospital, and Emergency Department to include guidelines to facilitate the rapid assessment and initial resuscitation of the severely injured patient, ~~including primary and secondary survey.~~ patient. Criteria addressing management during transport shall include continued

assessment and management of airway, cervical spine, breathing, circulation, neurologic and secondary parameters, communication, and documentation.

- (d) Transport to determine the appropriate mode of transport and level of care required to transport, considering patient condition, requirement for trauma center resources, family requests, and capability of transferring entity.
- (e) Bypass procedures that define:
 - (i) circumstances and criteria for bypass decisions;
 - (ii) time and distance criteria; and
 - (iii) mode of transport which bypasses closer facilities.
- (f) ~~Scene~~ Accident scene and inter-hospital diversion procedures that shall include delineation of specific factors such as hospital census or acuity, physician availability, staffing issues, disaster status, or transportation which would require routing of a patient to another hospital or trauma center. Trauma Center.
- (3) Transfer agreements ~~(to include~~ (including those with other hospitals, as well as specialty care facilities such as burn, pediatrics, spinal cord, and rehabilitation) which shall outline mutual understandings between facilities to transfer/accept certain patients. These shall specify responsible parties, documentation requirements, and minimum care requirements.
- (4) A performance improvement plan that includes:
 - (a) A regional trauma peer review committee of the RAC;
 - (i) whose membership and responsibilities are defined in G.S. 131E-162; and
 - (ii) continuously evaluates the regional trauma system through structured review of process of care and outcomes; and
 - (b) ~~The existing trauma registry database and the RAC registry database, once operational, that report quarterly or as requested by the OEMS.~~ Utilization of patient care data.

SECTION .0100 - FORMULA FOR DISTRIBUTION OF EMERGENCY MEDICAL SERVICES (EMS) SYSTEM DEVELOPMENT GRANT FUNDS

10A NCAC 13Q .0101 FORMULA FOR ALLOCATION OF STATE FUNDS

~~State funds shall be distributed to grantees for regional EMS system development grants with 30% of the state funds available based on population, 15% based on total area, 15% based on total land area, and 40% based on the number of counties in the grantee service area.~~

Authority G.S. 143-508.

10A NCAC 13Q .0102 FORMULA FOR ALLOCATION OF FEDERAL FUNDS

~~Federal funds allocated for distribution for regional EMS system development grants shall be distributed equally among the grant recipients.~~

Authority G.S. 143-508.

10A NCAC 13Q .0103 IMPLEMENTATION OF FUNDING FORMULA

~~Changes in available funding to grantees for the regional EMS system development grants brought about by the formulas specified in Rules .0901 and .0902 of this Section shall be implemented by applying 50% of the change in the Fiscal Year 1996 grant cycle and 50% of the change in the Fiscal Year 1997 grant cycle.~~

Authority G.S. 143-508.

SUBCHAPTER 13R – MINIMUM STANDARDS FOR MOBILE INTENSIVE CARE UNITS

SECTION .0100 - DEFINITIONS

10A NCAC 13R .0101 MOBILE INTENSIVE CARE UNIT I

~~"Mobile Intensive Care Unit I" means a Category I Ambulance staffed at a minimum by at least one emergency medical technician — intermediate as defined in 21 NCAC 32H .0102(4) and one certified ambulance attendant and equipped in accordance with the standards established by the Medical Care Commission for providing remote intensive care or cardiac care to sick and injured persons at the scene of a medical emergency and during transport to a health care facility.~~

Authority G.S. 131E-157(a); 131E-158(b); 131E-159(b).

10A NCAC 13R .0103 MOBILE INTENSIVE CARE UNIT III

~~"Mobile Intensive Care Unit III" means a Category I Ambulance staffed at a minimum by at least one emergency medical technician paramedic as defined in 21 NCAC 32H .0102(5) and one certified ambulance attendant and equipped in accordance with the standards established by the Medical Care Commission for providing remote intensive care or cardiac care to sick and~~

Authority G.S. 131E-162.

SUBCHAPTER 13Q – EMS FORMULA GRANTS

injured persons at the scene of a medical emergency and during transport to a health care facility.

Authority G.S. 131E-157(a); 131E-158(b); 131E-159(b).

10A NCAC 13R .0104 MOBILE INTENSIVE CARE UNIT IV

"Mobile Intensive Care Unit IV" means a Category I Ambulance staffed by at least one emergency medical technician—defibrillation as defined in 21 NCAC 32H .0102(2) and one certified ambulance attendant and equipped in accordance with the standards established by the Medical Care Commission for providing remote intensive care or cardiac care to sick and injured persons at the scene of a medical emergency and during transport to a health care facility.

Authority G.S. 131E-157(a); 131E-158(b); 131E-159(b).

10A NCAC 13R .0105 ADVANCED LIFE SUPPORT NONTRANSPORTING UNIT

"Advanced Life Support Nontransporting Unit" means a vehicle used to transport advanced life support equipment and personnel to the scene of a medical or traumatic emergency. It is not to be used for the transport of sick, ill, or injured patients. The vehicle must be staffed at a minimum by one person certified at a level equal to or greater than the level of service at which the vehicle is permitted to operate.

Authority G.S. 131E-157(a); 131E-158(b); 131E-159(b).

SECTION .0200 - EQUIPMENT

10A NCAC 13R .0201 GENERAL

All mobile intensive care units shall have all equipment specified in 10A NCAC 13P.

Authority G.S. 131E-157(a).

10A NCAC 13R .0202 MOBILE INTENSIVE CARE UNIT (MICU) I

(a) In addition to equipment required in Rule .0201 of this Section, an ambulance identified as a Mobile Intensive Care Unit I may, upon approval of the medical director, carry equipment and supplies to perform medical acts authorized by 21 NCAC 32H .0403. The amount of equipment or supplies carried on each MICU I shall be concurrent with the medical protocols approved by the Office of Emergency Medical Services in effect for the advanced Life Support program with which the MICU I is affiliated.

(b) A MICU I may also, upon approval of the medical director, carry the intravenous solution(s) and medications(s) authorized by 21 NCAC 32H .0403. The amounts and concentrations shall be concurrent with the medical protocols approved by the Office of Emergency Medical Services in effect for the Advanced Life Support program with which the MICU I is affiliated. A copy of the current medical protocols may be obtained from the sponsor hospital of the advanced life support program. One copy of 21 NCAC 32H may be obtained at no cost from the Office of

Emergency Medical Services, 701 Barbour Drive, P.O. Box 29530, Raleigh, NC 27626 0530.

Authority G.S. 131E-157(a).

10A NCAC 13R .0204 MOBILE INTENSIVE CARE UNIT III

(a) In addition to equipment required in Rule .0201 of this Section, an ambulance identified as a Mobile Intensive Care Unit III may, upon approval of the medical director, carry equipment and supplies to perform medical acts authorized by 21 NCAC 32H .0402. The amount of equipment or supplies carried on each MICU III shall be concurrent with the medical protocols approved by the Office of Emergency Medical Services in effect for the advanced Life Support program with which the MICU III is affiliated.

(b) A vehicle identified as a Mobile Intensive Care Unit III may also, upon approval of the medical director carry the intravenous solution(s) and medications(s) authorized by 21 NCAC 32H .0402. The amounts and concentrations shall be concurrent with the medical protocols approved by the Office of Emergency Medical Services in effect for the Advanced Life Support program with which the MICU III is affiliated. A copy of the current medical protocols may be obtained from the sponsor hospital of the advanced life support program. One copy of 21 NCAC 32H may be obtained at no cost from the Office of Emergency Medical Services, 701 Barbour Drive, P.O. Box 29530, Raleigh, NC 27626 0530.

Authority G.S. 131E-157(a).

10A NCAC 13R .0205 MOBILE INTENSIVE CARE UNIT IV

(a) In addition to equipment required in Rule .0201 of this Section, an ambulance identified as a Mobile Intensive Care Unit IV may, upon approval of the medical director, carry equipment and supplies to perform medical acts authorized by 21 NCAC 32H .0407. The amount of equipment or supplies carried on each MICU IV shall be concurrent with the medical protocols approved by the Office of Emergency Medical Services in effect for the advanced Life Support program with which the MICU IV is affiliated.

(b) A MICU IV may also, upon approval of the medical director, carry the medications(s) authorized by 21 NCAC 32H .0407. The amounts and concentrations shall be concurrent with the medical protocols approved by the Office of Emergency Medical Services in effect for the Advanced Life Support program with which the MICU IV is affiliated. A copy of the current medical protocols may be obtained from the sponsor hospital of the advanced life support program. One copy of 21 NCAC 32H may be obtained at no cost from the Office of Emergency Medical Services, 701 Barbour Drive, P.O. Box 29530, Raleigh, NC 27626 0530.

Authority G.S. 131E-157(a).

**10A NCAC 13R .0206 ADVANCED LIFE SUPPORT
NONTRANSPORTING UNIT**

~~A vehicle identified as an Advanced Life Support nontransporting unit shall carry equipment and supplies in accordance with the level of Advanced Life Support care offered by the provider with which the vehicle is affiliated. These requirements are defined in Rules .0202, .0203, .0205, and .0207 of this Subchapter. These vehicles shall also comply with requirements and criteria set forth in North Carolina General Statutes 20-125, regarding horns and audible warning devices; 20-130.1, regarding the use of red lights and other visual warning devices; and Part 2 of Article 3A of Chapter 20, regarding vehicle equipment safety inspections.~~

Authority G.S. 131E-157(a).

SECTION .0300 - COMMUNICATION

10A NCAC 13R .0301 TWO-WAY RADIO

~~A mobile intensive care vehicle must contain a two-way radio capable of establishing effective voice communication between the mobile intensive care personnel and the sponsor hospital personnel from any geographical point within the service area of the program.~~

Authority G.S. 131E-157(a).

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Private Protective Services Board intends to amend the rules cited as 12 NCAC 07D .0301 - .0302, .0401 - .0402, .0501, .1201.

Proposed Effective Date: *December 1, 2008*

Public Hearing:

Date: *August 30, 2008*

Time: *2:00 p.m.*

Location: *PPSB Conference Room, 1631 Midtown Place, Suite 104, Raleigh, NC 27609*

Reason for Proposed Action: *Based upon public comment, the Board has decided to eliminate the requirement that an applicant may only use experience gained within the past 10 years. Instead the Board, by amendment to this rule, will eliminate the requirement and will accept any verifiable experience without a time limit.*

Procedure by which a person can object to the agency on a proposed rule: *The Board will accept written comments on the above-referenced rule on or before the end of the public comment period. Written comments shall be mailed to the Board at the following address: Terry Wright, Director, NC PPSB, 104 Midtown Place, Raleigh, NC 27601.*

Comments may be submitted to: *Terry Wright, Director, 104 Midtown Place, Raleigh, NC 27601*

Comment period ends: *October 14, 2008*

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact:

- State
- Local
- Substantive (\geq \$3,000,000)
- None

CHAPTER 07 – PRIVATE PROTECTIVE SERVICES

SUBCHAPTER 07D - PRIVATE PROTECTIVE SERVICES BOARD

**SECTION .0300 - SECURITY GUARD AND PATROL:
GUARD DOG SERVICE**

12 NCAC 07D .0301 EXPERIENCE REQUIREMENTS/SECURITY GUARD AND PATROL LICENSE

(a) In addition to the requirements of 12 NCAC 07D .0200, applicants for a security guard and patrol license shall:

- (1) establish to the Board's satisfaction three years experience ~~within the past 10 years~~ as a manager, supervisor, or administrator with a contract security company or a proprietary security organization performing guard and patrol functions; or
- (2) establish to the Board's satisfaction three years experience ~~within the past 10 years~~ as a manager, supervisor, or administrator in security with any federal, U.S. Armed Forces, state, county, or municipal law enforcement agency performing guard and patrol functions.

(b) The Board shall give credit toward the experience requirements set forth in (a)(1) and (2) of this Rule as follows:

- (1) An applicant shall receive a minimum of 400 hours of experience credit for an associate's degree. The Administrator or the Board may grant up to 100 additional hours if the applicant can demonstrate that further training

or course-work related to the private protective services industry was received while obtaining the associate's degree.

- (2) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Administrator or the Board may grant up to 200 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the bachelor's degree.
- (3) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Administrator or the Board may grant an additional 300 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the graduate degree.

(c) Persons licensed under Chapter 74D of the General Statutes of North Carolina, may be issued a limited guard and patrol license exclusively for providing armed alarm responders.

Authority G.S. 74C-5; 74C-8; 74C-13.

12 NCAC 07D .0302 EXPERIENCE REQUIREMENTS FOR GUARD DOG SERVICE LICENSE

In addition to the requirements of 12 NCAC 07D .0200, applicants for a guard dog service license shall:

- (1) establish to the Board's satisfaction two years experience ~~within the past 10 years~~ as a manager, supervisor, administrator, or dog handler with a contract security company or proprietary security organization performing guard dog functions; or
- (2) establish to the Board's satisfaction two years experience ~~within the past 10 years~~ as a manager, supervisor, administrator, or dog handler with any federal, U.S. Armed Forces, state, county, or municipal agency performing guard dog functions.

Authority G.S. 74C-5; 74C-8.

SECTION .0400 - PRIVATE INVESTIGATOR: COUNTERINTELLIGENCE

12 NCAC 07D .0401 EXPERIENCE REQUIREMENTS FOR A PRIVATE INVESTIGATOR LICENSE

(a) In addition to the requirements of G.S. 74C-8 and 12 NCAC 07D .0200, applicants for a private investigator license shall:

- (1) establish to the Board's satisfaction three years of verifiable experience ~~within the past 10 years~~ while conducting investigations as defined in G.S. 74C-3(a)(8) with a contract security company or with a private person, firm, association or corporation; or
- (2) establish to the Board's satisfaction three years of verifiable experience ~~within the past 10~~

~~years~~ while conducting investigations as defined in G.S. 74C-3(a)(8) while serving in an investigative capacity as defined in 12 NCAC 07D .0104(9) with any Federal, U.S. Armed Forces, state, county, municipal law enforcement agency or other governmental agency.

(b) The Board shall give credit toward the experience requirements set forth in Paragraph (a) of this Rule as follows:

- (1) An applicant shall receive a minimum of 400 hours of experience credit for an associate's degree. The Administrator or the Board may grant up to 100 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the associate's degree.
- (2) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Administrator or the Board may grant up to 200 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the bachelor's degree.
- (3) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Administrator or the Board may grant an additional 300 additional hours if the applicant can demonstrate that further training or course-work related to the private protective services industry was received while obtaining the graduate degree.

(c) Time spent teaching police science subjects at a post-secondary educational institution (such as a community college, college or university) shall toll the time for the minimum year requirements in 12 NCAC 07D .0401(a). For the purposes of this Section, "toll" means that the experience gained by an applicant immediately prior to beginning teaching shall not be discredited. "Toll" shall not mean that credit is given for teaching police science subjects.

Authority G.S. 74C-5(2).

12 NCAC 07D .0402 EXPERIENCE REQUIREMENTS FOR A COUNTERINTELLIGENCE LICENSE

In addition to the requirements of 12 NCAC 07D .0200, applicants for a counterintelligence license shall:

- (1) establish to the Board's satisfaction three years experience ~~within the past 10 years~~ in counterintelligence; or
- (2) have successfully completed a course in counterintelligence given by a school specializing in counterintelligence which has been approved by the Board and which consists of not less than 40 hours of actual classroom instruction.

Authority G.S. 74C-5.

SECTION .0500 - POLYGRAPH

12 NCAC 07D .0501 EXPERIENCE REQUIREMENTS FOR A POLYGRAPH LICENSE

(a) In addition to the requirements of 12 NCAC 07D .0200, applicants for a polygraph license shall:

- (1) pass an examination and a performance test administered by a panel of polygraph examiners designated by the Board;
(2) successfully complete a course of formal instruction at any polygraph school approved by the American Polygraph Association or the Board; and
(3) have one year of polygraph experience within the past three years or successfully complete at least six months of training as a holder of a polygraph trainee permit, and administer no less than 50 polygraph examinations.

(b) Applicants for a polygraph license may take the examination required in Paragraph (a) of this Rule no more than twice in any calendar year and any applicant who fails the polygraph examination four times shall retake the polygraph school required in Paragraph (a) of this Rule before taking the polygraph examination again.

(c) Polygraph operators who are duly licensed in another state may run up to three examinations in this state without being licensed, provided that those examinations are for the purpose of an evaluation of that examiner and provided that the administrator has given authorization for this evaluation in advance.

Authority G.S. 74C-5.

SECTION .1200 - COURIER

12 NCAC 07D .1201 EXPERIENCE REQUIREMENTS FOR COURIER LICENSE

In addition to the requirements of 12 NCAC 07D .0200, applicants for a courier service license shall:

- (1) establish to the Board's satisfaction two years experience within the past 10 years as a manager, supervisor, administrator, or courier with a contract security or courier company or proprietary security organization performing courier functions; or
(2) establish to the Board's satisfaction two years experience within the past 10 years as a manager, supervisor, administrator, or courier with any federal, U.S. Armed Forces, state, county, or municipal agency performing courier functions.

Authority G.S. 74C-3(a)(4); 74C-5; 74C-13.

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10F .0201.

Proposed Effective Date: December 1, 2008

Public Hearing:

Date: September 1, 2008

Time: 10:00 a.m.

Location: 1751 Varsity Drive, WRC Centennial Campus Headquarters, Room 425, 4th floor

Reason for Proposed Action: The proposed change would provide that requirements for sound devices and lights (which are already set forth in the rule) are made part of the paragraph that applies these rules to vessels operating in State waters. The agency's last amended version of this rule erroneously limited its application to subsections "(b) through (e)," instead of "(b) through (g)," which was the original intention and subject of earlier hearings.

Procedure by which a person can object to the agency on a proposed rule: Any person who wishes to object to a proposed rule may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period set up for this rule. For this rule, the contact person is David Stokes.

Comments may be submitted to: David Stokes, 1710 Mail Service Center, Raleigh, NC 27699-1710

Comment period ends: October 14, 2008

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact:

- State
Local
Substantive (≥\$3,000,000)
None

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0200 - SAFETY EQUIPMENT AND ACCIDENT REPORTS

15A NCAC 10F .0201 SAFETY EQUIPMENT

(a) Federal Regulations Adopted. As its regulations governing required equipment of vessels as defined in G.S. 75A-2(5), pursuant to G.S. 75A-6, the Wildlife Resources Commission adopts the following federal regulations, to be applicable to vessels operated on all waters of this state as defined by G.S. 75A-2(6): Code of Federal Regulations, Title 46, Part 25, and Title 33, Part 175, as supplemented by the Federal Register. To the extent that the vessel equipment requirements of G.S. 75A-6 conflict with these federal regulations, they are hereby modified to conform to the federal regulations as authorized by G.S. 75A-6(m) and 113-307.

Without limitation to the adoption of the Federal regulations named herein, the rules set forth in subsections (b) through ~~(e)~~(g) shall apply to vessels operating in State waters.

(b) Personal Flotation Devices (hereinafter referred to as PFDs).

- (1) No person may operate a vessel unless at least one PFD of the following types is on board and readily accessible for each person:
 - (A) Type I PFD;
 - (B) Type II PFD; or
 - (C) Type III PFD.
- (2) No person may operate a vessel 16 feet or more in length unless one type IV PFD is on board and immediately available for use, in addition to the total number of PFDs required in Subparagraph (1) of this Paragraph.
- (3) No person may operate a vessel while such vessel is underway with any child under 13 years old aboard unless each such child is:
 - (A) wearing an appropriate PFD approved by the Coast Guard; or
 - (B) below decks; or
 - (C) in an enclosed cabin.

This Subparagraph does not apply to a vessel that is registered as a commercial vessel.

- (4) A Type V PFD may be carried in lieu of any PFD required under Subparagraph (1) of this Paragraph provided:
 - (A) the approval label for the Type V PFD indicates that the device is approved for the activity for which the vessel is used; or
 - (B) the Type V PFD is used in accordance with the requirements on the approval label and with the requirements in its owners manual.
- (5) No person may operate a vessel unless each required PFD is:
 - (A) in serviceable condition;
 - (B) of appropriate size and fit for the intended wearer;
 - (C) USCG approved; and

(D) legibly marked with its approval number, as specified in CFR Title 46 Part 25 and CFR Title 33 Part 175.

(c) Fire Extinguishers

- (1) All motorboats shall carry at least the minimum number of USCG approved hand portable fire extinguishers specified in this Rule if any one of the following conditions exist:
 - (A) Closed compartments under thwarts and seats wherein portable fuel tanks may be stored;
 - (B) double bottoms not sealed to the hull or which are not completely filled with flotation material;
 - (C) closed living spaces;
 - (D) closed stowage compartments in which combustible or flammable materials are stowed;
 - (E) permanently installed fuel tanks; or
 - (F) motorboats of Class 2 or longer;
- (2) Motorboats of Class A and 1 (less than 26 feet): One Type B-I
- (3) Motorboats of Class 2; Two Type B-I extinguishers
- (4) Motorboats of Class 3; Three Type B-I extinguishers
- (5) One Type B-II hand held fire extinguisher may be substituted for two B-I hand portable fire extinguishers. A fixed fire extinguishing system installed in the engine compartment is equal to one Type B-I hand portable fire extinguisher.

Exemption to fire extinguisher requirements: Open Vessels. Vessels less than 26 feet in length, propelled by outboard motors and not carrying passengers for hire, need not carry such portable fire extinguishers if the construction of such motorboats will not permit the entrapment of explosive or flammable gases or vapors.

(d) Every engine installed in a vessel using gasoline as fuel must be equipped with an acceptable means of backfire flame control, except outboard motors. An acceptable means of backfire flame control meets the requirements of CFR Title 46 Part 25 and CFR Title 33 Part 175.

(e) Every vessel, except those Open Vessels defined in Paragraph (c) of this Rule, using as fuel any liquid of a volatile nature, shall be provided with such means of properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or flammable gases. Proper and efficient ventilation meets the requirements of CFR Title 46 Part 25 and CFR Title 33 Part 175.

(f) Sound Devices

- (1) Vessels of less than 12 meters (39.4 feet) in length shall be equipped with some means of making an efficient sound signal.
- (2) Vessels greater than 12 meters (39.4 feet) in length shall be provided with a whistle and a bell which complies with 33 USC 2033.

(g) Lights. The lights prescribed by these Rules shall be exhibited from sunset to sunrise, and in restricted visibility. During such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with keeping a proper lookout. They may be exhibited in all other circumstances when deemed necessary:

- (1) Vessels greater than 12 meters (39.4 feet) but less than 20 meters (65.6 feet) in length shall exhibit:
 - (A) A masthead light forward visible for three miles;
 - (B) Sidelights, green to starboard and red to port visible for two miles; and
 - (C) A stern light visible for two miles;
- (2) Vessels less than 12 meters (39.4 feet) in length shall exhibit:
 - (A) An all-round white light visible for two miles; and
 - (B) Sidelights, green to starboard and red to port visible for 1 mile;
- (3) Sailing vessels underway that are seven meters (23 feet) in length or greater shall exhibit:
 - (A) A stern light visible for two miles; and
 - (B) Sidelights, green to starboard and red to port visible for two miles;
- (4) In a sailing vessel less than 20 meters in length the lights prescribed in Subparagraph (3) of this Paragraph may be combined in one lantern carried at or near the top of the mast where it can be best seen;
- (5) A sailing vessel of less than seven meters (23 feet) in length shall, if practicable, exhibit the lights prescribed in Subparagraph (3) or (4) of this Paragraph; if not the vessel shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent a collision;
- (6) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if not, shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent a collision; and
- (7) Vessels of 10 Horsepower or Less. On waters of this State not subject to the jurisdiction of the United States, vessels propelled by machinery of 10 horsepower or less, in lieu of the foregoing requirements, may carry from one-half hour after sunset to one-half hour before sunrise a white light in the stern or have on board a hand flashlight in good working condition which shall be ready at hand and shall be temporarily displayed in sufficient time to prevent collision. On waters of this State that are subject to the jurisdiction of the United States, this exception, though

permissible under state law, is not sanctioned by any federal law or regulation.

Authority G.S. 75A-3; 75A-6; 113-307.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 34 - BOARD OF FUNERAL SERVICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Board of Funeral Service intends to adopt the rules cited as 21 NCAC 34A .0127; 34B .0213, .0310; 34D .0106, .0203 and amend the rules cited as 21 NCAC 34A .0103 - .0104, .0108, .0124, .0126; 34B .0103, .0120, .0202, .0211, .0408, .0414, .0615; 34C .0305 - .0306; 34D .0101, .0201, .0303.

Proposed Effective Date: *January 1, 2009*

Public Hearing:

Date: *September 10, 2008*

Time: *9:00 a.m.*

Location: *1033 Wade Avenue, Suite 108, Raleigh, NC 27605*

Reason for Proposed Action: *To eliminate rules pertaining to repealed statutes, to prescribe forms for declaratory rulings, to define solicitation, to modify agency complaint handling procedure, to establish agency procedures for document filings, to add qualifications for trainee supervisors and to create standards for supervision, to prescribe filing deadlines for work affidavits, to establish exam test score validity limits, to prescribe forms and requirements for funeral directors practicing outside a funeral home, to modify computer-based continuing education requirements, to correct a technical error in the signing of funeral establishment inspection forms, to prescribe contract forms, to establish rules to order the transfer of preneed contracts to another jurisdiction, to prescribe preneed establishment forms, to establish standards and procedures for surety bonds and petitioning for their revocation.*

Procedure by which a person can object to the agency on a proposed rule: *Objections may be made at the public hearing or by submitting written comments.*

Comments may be submitted to: *Paul Harris, 1033 Wade Avenue, Suite 108, Raleigh, NC 27605, phone (919) 733-9380, fax (919) 733-8271, email wpharris@ncbfs.org*

Comment period ends: *October 14, 2008*

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact:

- State
- Local
- Substantive (>\$3,000,000)
- None

SUBCHAPTER 34A - BOARD FUNCTIONS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 34A .0103 PETITION FOR NOMINATION

~~(a) All petitions for nomination of a person to the Board of Funeral Service must be submitted on forms provided by the Board. The nominee shall furnish the name of the nominee, the seat to which he or she is nominated, and the signatures of 20 persons licensed to practice embalming, funeral directing or funeral service.~~

(b) All petitions for nomination of a person to the North Carolina Crematory Authority must be submitted on forms provided by the Board. The nominee shall furnish the name of the nominee and the signatures of three crematory managers or crematory technicians/operators.

Authority G.S. 90-210.122(c); 90-210.134(a).

21 NCAC 34A .0104 VOTING RECORDS

~~(a) The Board shall maintain records for demonstrating that a ballot has been mailed to a licensee and to show whether a ballot enclosing envelope has been returned. Voting records shall include the name, address, and license number of the licensee, record of whether and when a ballot has been mailed, and a record of whether and when the return of the ballot enclosing envelope has been returned.~~

(b) The Board shall maintain records for elections to the North Carolina Crematory Authority to show that a ballot was mailed to each crematory licensee and to show whether a ballot-enclosing envelope has been returned. Voting records shall include the name, address, and license number of the crematory operator, a record of whether and when the ballot has been mailed, and a record of whether and when the ballot-enclosing envelope has been returned.

Authority G.S. 90-210.23(a); 90-210.122(c); 90-210.134(a).

21 NCAC 34A .0108 REQUESTS FOR DECLARATORY RULING

(a) For the purpose of dealing with a request by a person aggrieved for a declaratory ruling, pursuant to G.S. 150B-4, the following procedures shall apply:

(1) The request shall be in ~~writing~~, writing on a form provided by the Board, and dated, dated and verified by the person submitting the ~~same~~ same, and shall be submitted in person or by mail to the office of the Board.

(2) The request form shall require the individual to submit ~~contain~~ the name and address of the person submitting the same; his or her license number or numbers if licensed by the Board; his or her current employment; a description of the rule or statute referred to; a statement of any facts the applicability of which to a rule or statute the person is questioning; and a statement of the manner in which the person is aggrieved by the rule or statute or its potential application to ~~him~~, him or her.

(3) Within 30 days after receiving such a request completed form, the Board shall meet, at which meeting at least a quorum of its members shall be present, to consider the request. At such meeting the Board shall make a decision by majority vote of those present as to whether to issue the ruling. The Board shall issue a ruling except:

- (A) when it finds that the person making the request is not a "person aggrieved", as defined in G.S. 150B-2(6); or
- (B) when it finds, in a request concerning the validity of a rule, that the circumstances are so unchanged since the adoption of the rule in question that a ruling would not be warranted; or
- (C) when it finds, in a request concerning the validity of a rule, that the rulemaking record shows that the Board considered all specified relevant factors when it adopted the rule in question.

(b) The Board shall, not later than the 60th day after it received such a request, deposit in the United States mail, postage prepaid, a written statement addressed to the person making the request and setting forth the Board's ruling on the merits of the request for a declaratory ruling, or setting forth the reason the ruling was not made, as the case may be. If the Board decides to make the ruling, it may make the ruling at the meeting convened to consider the request, or it may defer its ruling until a later date, but not later than the 60th day after the request for a ruling is received. Before making the ruling the Board may gather additional information, may give notice to other persons and may permit such other persons to submit information or arguments under such conditions as are set forth in such notice. Such ruling shall be made by the Board at a meeting at which at least a quorum of its members shall be present and by majority vote of those present.

Authority G.S. 90-210.23(a); 150B-4.

21 NCAC 34A .0124 SOLICITATION

(a) Definitions. As used in this Rule:

- (1) "Licensee" shall mean a person licensed by the Board as a funeral service, funeral director, or embalmer.
- (2) "Solicit" shall mean engaging in the act of solicitation.
- (3) "Solicitation" ~~Solicitation, as the term used in G.S. 90-210.25(e)(1)d, shall be interpreted to mean an~~ any uninvited, intentional contact with an ~~individual, individual in person or by telephone,~~ individual in person or by telephone, for the purpose of procuring the right to provide funeral services or merchandise, either immediately or at a future ~~date. date when financial gain is a significant motive. All licensees of the Board must comply with the following in order to avoid committing solicitation as prohibited by G.S. 90-210.25(e)(1)d:~~

(b) All licensees of the Board must comply with the following in order to avoid committing solicitation as prohibited by G.S. 90-210.25(e)(1)d:

- (1) A licensee of the Board shall not by in-person, live ~~telephone—telephone,~~ or real-time electronic contact solicit professional employment from a prospective customer when a significant motive for the licensee's doing so is the licensee's pecuniary gain, unless the person contacted:
 - ~~(a)(A)~~ is a licensee; or
 - ~~(b)(B)~~ has a family, close personal, or prior professional relationship with the licensee.
- (2) A licensee shall not solicit professional employment from a prospective customer by written, recorded or electronic communication or by in-person, ~~telephone telephone,~~ or real-time electronic contact even when not otherwise prohibited by ~~Sub items (1)(a) or (1)(b) Parts (b)(1)(A) or (b)(1)(B) of this Rule if:~~
 - ~~(a)(A)~~ the prospective customer has made known to the licensee a desire not to be solicited by the licensee; or
 - ~~(b)(B)~~ the solicitation involves coercion, duress, harassment, compulsion, intimidation, or threats.
- (3) Every written, recorded or electronic communication from a licensee soliciting professional employment from a prospective ~~client customer~~ known to be in need of funeral services ~~for an imminent or recent death in a particular matter~~ shall include the words "This is an advertisement for funeral services" on the outside envelope, if a written communication sent by mail, and at the beginning of the body of a written or electronic communication in print as large or larger than the licensee's or licensee's business name, and at the beginning

and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in ~~Sub items (1)(a) or (1)(b) Parts (b)(1)(A) or (b)(1)(B).~~

(c) A licensee shall violate this Rule whenever any agent, employee, or assistant of the licensee violates Subparagraphs (b)(1), (b)(2), or (b)(3) of this Rule with the knowledge, direction, or consent of the licensee.

Authority G.S. 90-210.23(a); 90-210.25(e)(1)d.

21 NCAC 34A .0126 COMPLAINTS; PRELIMINARY DETERMINATIONS

(a) A person who believes that any person, firm or corporation is in violation of any provision of G.S. 90, Article 13A, 13D, 13E, or 13F or Title 21, Chapter 34, of the North Carolina Administrative Code, may file a written complaint with the Board's staff. If the accused is subject to the jurisdiction of the Board, the complaint shall be handled pursuant to this Rule.

(b) A complaint shall be handled initially by the Board's Executive Director, or staff designated by him or her. If a complaint on its face appears to be outside the jurisdiction of the Board, the Executive Director or his or her staff designees may forward the complaint to the Board's disciplinary committee without following the procedures of paragraphs (c) through (e) of this Rule and may forward the matter to any federal or state agency with the appropriate jurisdiction.

(c) The Executive Director or his or her staff designees shall notify the accused of the complaint in writing. Such notice shall be ~~sent~~ served by hand or by certified mail, return receipt requested; shall state the allegations as contained in the complaint, or may enclose a copy of the complaint; and shall contain a request that the accused submit a response in writing within 10 days from the date the notice of the complaint is received by the accused.

(d) If the accused responds to the allegations, the Executive Director or his or her staff designees shall forward a summary of the response, or the response itself, to the person who filed the complaint and give him or her 15 days to respond. Following a receipt of a rebuttal by the consumer or after 15 days without having received a ~~rebuttal,—rebuttal and any additional investigation deemed necessary by the Executive Director or his or her staff designees,~~ rebuttal the matter shall then be referred to the disciplinary committee. ~~The disciplinary committee shall review the file and may request additional investigation. Following a review of the file, to include any information received pursuant to its additional investigation, the disciplinary committee shall make a preliminary determination of the charges and shall recommend to the Board which of the actions in Paragraph (f) of this Rule should be taken.~~

(e) If the accused does not respond to the allegations, the ~~Board's~~ Executive Director or his or her staff designees shall investigate the ~~allegations,~~ allegations and refer the complaint and any other available evidence to the Board's disciplinary committee for review. ~~From such review, the committee shall make a preliminary determination and shall recommend to the Board which of the actions in Paragraph (f) of this Rule should be taken.~~

(f) In accordance with Paragraphs (d) through (e) of this Rule, the disciplinary committee shall review the complaint ~~and the file, file.~~ The disciplinary committee may request additional investigation of a file or if applicable, shall make a preliminary determination, and shall determine to recommend to that the Board take that one of the following actions: actions be taken:

- (1) that the complaint be dismissed as unfounded, frivolous or trivial; because of insufficient grounds to believe one or more licensees has violated any law or regulation of the Board or other grounds requiring dismissal;
- (2) that a letter of caution be issued; issued because there is sufficient grounds to believe the licensee may have violated a law or regulation of the Board but disciplinary action is not warranted;
- (3) that the case be compromised pursuant to G.S. 90-210.25(e)(1), 90-210.123(g), or 90-210.69(c); or
- (4) that the case be set for a contested case hearing; hearing because sufficient grounds exist to believe one or more licensees may have violated a law or regulation of the Board justifying disciplinary action; or
- (5) Any other action the Board may take that is authorized by law.

(g) The Board may accept or reject, in whole or in part, the recommendations of the disciplinary committee.

Authority G.S. 90-210.23(a),(d); 90-210.25(e); 90-210.69(a),(c); 90-210.80; 90-210.123(g); 90-210.134(a).

21 NCAC 34A .0127 FILING OF DOCUMENTS

Any document that does not require a fingerprint card or the payment of a fee, or that does not pertain to elections to the N.C. Crematory Authority or to a resident traineeship, may be filed with the Board by U.S. mail, private courier service, facsimile, or hand delivery. All other documents must be filed by U.S. mail, private courier service, or hand delivery. Documents shall be considered filed on the date of receipt or, if sent by U.S. mail or private courier service, on the date of postmark or date stamp used by the private courier respectively.

Authority G.S. 90-210.23(a).

SUBCHAPTER 34B - FUNERAL SERVICE

SECTION .0100 - RESIDENT TRAINEES

21 NCAC 34B .0103 AUTHORIZED PRACTICE: SUPERVISION

(a) Duly certified resident trainees in training for funeral service, duly certified resident trainees in training for funeral directing and duly certified resident trainees in training for embalming, while participating in learning experiences and while supervised by a person licensed by the Board as a funeral service licensee, funeral director or embalmer, respectively, may assist in the practice of funeral service, funeral directing or embalming respectively, as limited by this Rule.

(b) A licensee wishing to supervise a trainee shall meet the following requirements:

- (1) The licensee shall have either practiced continuously in North Carolina for a minimum of five years before the date of the application, or shall have taken a trainee supervisor certification course provided by the Board; and
- (2) The licensee shall not have any disciplinary action taken by the Board or the licensing board of any other jurisdiction to suspend or revoke his or her license during the five years preceding the application.

~~(c)(b)~~ Duly certified resident trainees in training for funeral service or for funeral directing, while participating in learning experiences and while supervised by a person licensed by the Board as a preneed sales licensee, may also assist in the preneed funeral planning activities described in 21 NCAC 34D .0202(b)(1), (2), (4), and (5).

~~(d)(e)~~ No credit shall be given for the resident trainee's work that is unsupervised or performed under the supervision of a person not registered with the Board as the resident trainee's supervisor. If the registered supervisor does not supervise the resident trainee for a continuous period of more than two weeks, the traineeship under that supervisor shall terminate, requiring a new traineeship application. When a resident trainee assists in funeral service, funeral directing, embalming or preneed funeral planning on the funeral home premises, a licensed supervisor shall be on the funeral home premises where and while such activities are ~~performed.~~ performed; provided that a licensed supervisor shall be present in the same room whenever a resident trainee accepts any initial payment or negotiates any contract for funeral services either at-need or pre-need with the public. When a resident trainee assists in funeral service, funeral directing, embalming or any funeral planning off the funeral home premises, such activities shall be performed only in the presence of a licensed supervisor employed with the establishment with which the resident trainee is registered.

~~(e)(d)~~ A licensed supervisor shall review with the purchaser any contract negotiated by a resident trainee, and then the licensed supervisor shall obtain the purchaser's signature on the contract in the licensed supervisor's presence.

~~(f)(e)~~ The resident trainee's license certificate for indicating the trainee's authority to assist in the activities described and authorized in this Rule and in 21 NCAC 34D .0202(b) is the resident trainee pocket certificate.

Authority G.S. 90-210.23(a),(f); 90-210.25(a)(4), (5)d.; 90-210.67(a); 90-210.69(a).

21 NCAC 34B .0120 TRAINEE FINAL AFFIDAVIT FORM

Upon the conclusion of a resident traineeship with a licensed supervisor, the supervisor shall submit an affidavit to certify that the trainee has served and performed certain work under him as required by G.S. 90-210.25(a)(4). The affidavit shall be submitted within 30 days on forms provided by the Board and require the affiant to furnish the names of the licensee and the trainee; dates and place of service; the number of funerals, preneed funeral contracts and embalmings that the trainee has

assisted in during traineeship; and any other information the Board deems necessary as required by law.

Authority G.S. 90-210.23(a),(d),(f); 90-210.25(a)(4)f.; 90-210.67(a); 90-210.69(a).

SECTION .0200 – EXAMINATIONS

21 NCAC 34B .0202 APPLICATIONS

(a) Applicants to take the examination for a license shall apply to the Board upon forms to be furnished by the Board. The application must be verified by the applicant and received by the Board at least 30 days prior to the date of the examination. Applicants are ineligible to take the examination before completing their educational requirements.

(b) If the applicant does not sit for all examinations within 12 months of the filing date, the applicant forfeits the pending application and fee, and the applicant shall submit a new application and fee.

Authority G.S. 90-210.23(a); 90-210.25(a)(1),(2),(3).

21 NCAC 34B .0211 NATIONAL BOARD CERTIFICATE

The Board shall accept a "National Board Certificate," certifying the successful completion of the National Board Examination of the International Conference of Funeral Service Examining Boards Inc., as the equivalent of that portion of the Board's examination which deals with basic health sciences, funeral service sciences, and funeral service administration. National Board Certificates shall be accepted for five years from the date of issue if the applicant has not obtained a license in another jurisdiction.

Authority G.S. 90-210.23(a); 90-210.25(a)(5).

21 NCAC 34B .0213 EXPIRATION OF TEST SCORES

Passing scores earned on any examination administered by the Board to obtain a license in North Carolina shall be valid for five years from the date of examination. If an applicant has not used the test score to obtain a license in another jurisdiction, any passing score earned on any examination administered by the International Conference of Funeral Service Examining Boards, Inc., ("ICFSEB") that has not been used to receive a National Board Certificate, as defined in 21 NCAC 34B .0211, shall be valid for five years from the date of examination.

Authority G.S. 90-210.23(a); 90-210.25(a)(1), (2), (3).

SECTION .0300 - LICENSING

21 NCAC 34B .0310 PRACTICE OF FUNERAL SERVICE OR FUNERAL DIRECTING NOT AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED FUNERAL ESTABLISHMENT

(a) A funeral director or funeral service licensee registered to practice under G.S. 90-210.25(a2) shall not use its business office required by G.S. 90-210.25(a2)(2)a. to conduct the practice of funeral service or funeral directing. A funeral

director or funeral service licensee shall not hold out to the public that its business office is a funeral establishment and shall not use a business name that misleads the public to believe that its business office is a funeral establishment or operates or maintains a facility that is a funeral establishment.

(b) An applicant to practice under the provisions of G.S. 90-210.25(a2) shall submit a form prescribed by the Board with an application fee. The form shall required the applicant to furnish the name, address, telephone number, and county of location for the applicant and any business organization operating under the laws of North Carolina, the license number of the applicant, the location where the applicant shall shelter remains, the location where the applicant uses as an embalming facility, the name and license numbers of any other embalmers retained by a funeral director to embalm, and any other information the Board deems necessary as required by law. The applicant shall complete a verification before a notary public.

Authority G.S. 90-210.20(h); 90-210.23(a); 90-210.25(a2)(2)a., b.; 90-210.27A(a), (i).

SECTION .0400 – CONTINUING EDUCATION

21 NCAC 34B .0408 CONTINUING EDUCATION PROGRAM

(a) For licensees required to complete CE as a prerequisite to annual license renewal, the five hours of approved CE shall meet the following requirements:

- (1) Up to two hours may be in courses required by the Board. If the Board requires licensees to take a particular required course or courses, the Board shall notify licensees no later than October 1 of the year preceding the calendar year in which the course(s) will be required.
- (2) Licensees may take up to ~~one hour~~ two hours of continuing education each year by computer-based CE approved by the Board as set forth in 21 NCAC 34B .0414.
- (3) Licensees may not receive more than two hours of credit for continuing education courses in preneed each year.
- (4) Licensees may not receive credit hours for taking the same CE course within two years.

(b) A newly admitted active licensee may include as credit hours, which may be carried over to the next succeeding year, any approved continuing education hours earned after that licensee's graduation from mortuary science college.

Authority G.S. 90-210.23(a); 90-210.25(a)(5).

21 NCAC 34B .0414 ACCREDITATION OF COMPUTER-BASED CE

(a) Effective for courses attended on or after ~~July 1, 2004,~~ January 1, 2009, a licensee may receive up to ~~one hour~~ two hours of credit each year for participation in a course on CD-ROM or on-line. A CD-ROM course is an educational seminar on a compact disk that is accessed through the CD-ROM drive of the user's personal computer. An on-line course is an

educational seminar available on a provider's website reached via the Internet.

(b) A licensee may apply up to ~~one~~ two credit ~~hour~~ hours of computer-based CE to a CE deficit from a preceding calendar year. A computer-based CE credit hour applied to a deficit from a preceding year will be included in calculating the maximum of ~~one hour~~ two hours of computer-based CE allowed in the preceding calendar year. A licensee may carry over to the next calendar year no more than ~~one~~ two credit ~~hour~~ hours of computer-based CE pursuant to 21 NCAC 34B .0408. A credit hour carried-over pursuant to 21 NCAC 34B .0408 shall not be included in calculating the ~~one hour~~ two hours of computer-based CE allowed in any one calendar year.

(c) To be accredited, a computer-based CE course must meet all of the conditions imposed by the rules in this Subchapter, except where otherwise noted, and be interactive, permitting the participant to communicate, via telephone, electronic mail, or a website bulletin board, with the presenter or other participants.

(d) The sponsor of an on-line course must have a reliable method for recording and verifying attendance. The sponsor of a CD-ROM course must demonstrate that there is a reliable method for the user or the sponsor to record and verify participation in the course. A participant may log on and off of a computer-based CE course provided the total time spent participating in the course is equal to or exceeds the credit hours assigned to the program. A copy of the record of attendance must be forwarded to the Board within 30 days after a licensee completes his or her participation in the course.

(e) After approval of a computer-based CE course, the sponsor may replay the computer-based CE course indefinitely until any change is made to the course content. Any modification to an approved computer-based CE course shall require the sponsor to submit a new application for approval but the sponsor may continue to show the previously approved version of the course.

Authority G.S. 90-210.23(a); 90-210.25(a)(5).

SECTION .0600 - FUNERAL ESTABLISHMENTS

21 NCAC 34B .0615 FUNERAL ESTABLISHMENT INSPECTION FORM

The findings of all funeral establishment inspections shall be recorded and filed on report forms provided by the Board. The funeral establishment shall furnish the name and address of the establishment; names of the owner, manager, licensees and resident trainees; verification by the funeral establishment that any violations have been corrected, the date of the verification, and other information the Board deems necessary as required by law. Verifications by an official of the funeral establishment ~~crematory licensee~~ that any violations have been corrected must be received by the Board no later than seven days after the date for compliance.

Authority G.S. 90-210.23(a),(d),(e); 90-210.24.

SUBCHAPTER 34C - CREMATORIES

SECTION .0300 - AUTHORIZATIONS, REPORTS, RECORDS

21 NCAC 34C .0305 MONTHLY REPORTS

No later than the tenth day of each month, ~~as confirmed by the postmark date,~~ every crematory licensee shall remit to the Board the per-cremation fees for the cremations which the licensee performed during the immediately preceding calendar month. The fees shall be accompanied by a statement signed by an authorized representative of the crematory indicating the name of the crematory, each decedent's name, date of each cremation, the person or other entity for whom each cremation was performed, the number of cremations contained in the report and the total amount of fees remitted with the report.

Authority G.S. 90-210.132; 90-210.134(a).

21 NCAC 34C .0306 RETENTION OF RECORDS

A copy of all death certificates, authorizations, waivers, statements, reports and other documents required by G.S. ~~90-210.40 through G.S. 90-210.54~~ 90-210.120 through G.S. 90-210.134 and by the rules in this Subchapter shall be retained by the crematory licensee for a period of three years and shall, during that period, be subject to inspection by the Board or its agents.

Authority G.S. 90-210.127; 90-210.134(a).

SUBCHAPTER 34D - PRENEED FUNERAL CONTRACTS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 34D .0101 APPROVAL OF CONTRACT FORMS

~~No preneed funeral contract form shall be approved by the Board unless it, with any attachments, meets the following requirements, insofar as they are applicable to the lawful, intended sales transaction: All preneed funeral contracts shall be transacted on forms prescribed by the Board. The Board may prescribe different forms for standard or inflation-proof contracts or for trust or insurance contracts. Each preneed funeral contract form shall contain the following information:~~

- (1) Is written in clear, understandable language and is printed in easy-to-read type, size and style on paper not larger than 8 1/2 ~~2~~ by 14 inches, with printing on both sides permitted.
- (2) States or provides space for inserting the name, address and preneed funeral establishment license number of the contracting funeral establishment.
- (3) Provides space for inserting the names, addresses and Social Security numbers of the purchaser and contract beneficiary.
- (4) States that a description of the merchandise and services purchased is attached to the seller's and purchaser's copies of the contract and is a part of the agreement. The attachment shall be a form provided by the Board satisfying the requirements of a "statement of goods and services selected" as described in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

- (5) Discloses any penalties or restrictions, including geographical restrictions, on the delivery of merchandise and services.
- (6) States whether it is a standard or inflation-proof contract and summarizes, consistent with North Carolina law, the incidents of such type of contract.
- (7) Provides space for inserting the financial transaction.
- (8) Provides space for the purchaser to indicate, by the purchaser's signature or initials, the following:
 - (a) The purchaser's choice of trust-funded or insurance-funded contract.
 - (b) That the purchaser acknowledges that the funeral establishment will retain, and not deposit in trust, a stated percentage (not more than 10%) of the purchaser's payments.
 - (c) The purchaser's choice of revocable or irrevocable contract.
 - (d) That the purchaser acknowledges that the sale was made at the funeral establishment's place of business, so as to negate the cancellation rights connected with an off-premises sale.
- (9) Contains notice, in bold type, of the purchaser's right to cancel an off-premises sale.
- (10) Contains notice, in bold type, that if the purchaser does not receive notification from the Board, within 30 days, that it has received a copy of the contract, the purchaser should notify the Board at its current, stated address and telephone number.
- (11) Explains the parties' rights and obligations, consistent with North Carolina law, with respect to contract revocation, default, the funeral establishment's retention of a portion of the purchase price free of the trust, and the substitution of funeral homes to perform the contract.
- (12) Contains a notice of the existence of the Board's preneed recovery fund.
- (13) Contains, or refers to an attachment containing, all funeral sales disclosures to consumers as required by federal and North Carolina law.
- (14) Provides spaces for the signatures of the parties to the contract, including the signature and preneed sales license number of the preneed sales licensee who sold the contract. The following shall appear, in bold type, beneath the signature of the preneed sales licensee: "Signed and preneed sales license number affixed in presence of Purchaser at time of sale."
- (15) Any other information the Board deems necessary and is required by law.

Authority G.S. 90-210.62(b); 90-210.69(a),(c)(6).

21 NCAC 34D .0106 TRANSFER OF TRUST PRENEED CONTRACTS TO ANOTHER JURISDICTION

- (a) In order to revoke a preneed funeral contract under G.S. 90-210.65(e)(1), the preneed contract purchaser, or after the death of the preneed contract purchaser, the preneed contract beneficiary or his or her legal representative, shall submit a written request to the Board. The request shall contain a written request to transfer the contract; the domicile of the preneed contract beneficiary at the time of the request; the mailing address of the requesting party, if different from the domicile of the preneed contract beneficiary; and a copy of the new preneed contract executed under the laws of the state of the preneed contract beneficiary's domicile.
- (b) Upon finding that the contract may be revoked under G.S. 90-210.65(e)(1), the Board shall order the contract revoked and the funds be transferred to the succeeding funeral establishment under G.S. 90-210.63. A copy of the Board's order shall be served on the preneed contract beneficiary, the contracting funeral establishment, and the financial institution or insurance company holding the preneed funeral funds.

Authority G.S. 90-210.65(e)(1); 90-210.69(a).

SECTION .0200 - LICENSING

21 NCAC 34D .0201 PRENEED FUNERAL ESTABLISHMENT LICENSE

- (a) A funeral establishment wishing to apply for a preneed funeral establishment license shall complete a form prescribed by the Board. The form shall require the applicant to submit, ~~submit to the Board,~~ in addition to the information required by G.S. ~~90-210.67(a),~~ 90-210.67, the following information:
 - (1) its funeral establishment permit number issued pursuant to G.S. ~~90-210.25(d),~~ 90-210.25(d);
 - (2) type of business ~~entity,~~ entity;
 - (3) whether it is authorized to transact business in North ~~Carolina,~~ Carolina;
 - (4) whether it is ~~solvent,~~ solvent;
 - (5) whether there exist unsatisfied civil judgments against the applicant and copies of ~~any,~~ any;
 - (6) whether the applicant or any of its principals has been denied a license to engage in an occupation or had a license suspended, revoked or placed on ~~probation, and~~ probation;
 - (7) whether any principal has been convicted of a crime involving fraud or moral ~~turpitude,~~ turpitude;
 - (8) for all applicants required to maintain a surety bond, evidence that the bond is in effect at the time of application; and
 - (9) any other information deemed necessary by the Board and authorized by law.
- (b) The Board may require an applicant to submit additional proof to satisfy the requirements of G.S. ~~90-210.67(a) and (b),~~ 90-210.67.
- (c) The applicant shall submit, with its application, the names, preneed sales license numbers and telephone numbers of all

preneed sales licensees who will sell preneed funeral contracts as employees or agents of the applicant. Any additions to or deletions from the list of names shall be reported to the Board, within 10 days of the change, as an amended application on an application form.

(d) The same Board form shall be used for the original application, annual renewal application and amended application. All applications shall be verified as correct before a notary public by the owner, a corporate officer, partner, or member of the limited liability company owning the preneed establishment.

(e) Preneed funeral establishment licenses shall not be transferable. Upon a transfer of ownership of a funeral establishment, the provisions of 21 NCAC 34B .0605 apply, and a new application for a preneed funeral establishment license shall be made to the Board within 30 days of the transfer. The application fee shall accompany the application, as in the case of initial applications.

(f) The license certificate shall be conspicuously displayed in the funeral establishment at the address to which it is issued.

Authority G.S. 90-210.67(a), (b); 90-210.69(a).

21 NCAC 34D .0203 SURETY BONDS

(a) Any applicant for a new preneed funeral establishment license that are required to maintain a surety bond under G.S. 90-210.67(b) shall submit a copy of the bond with its initial application and with each renewal application. The bond shall cover all insurance premiums paid under a preneed insurance policy and all trust payments under a preneed funeral trust. The bond shall name the Board as trustee and shall be issued by a bonding company licensed to do business in this State. The Board shall recognize all surety bond forms approved by the N.C. Department of Insurance.

(b) Any preneed establishment licensee that wishes to repeal its bond after one year may petition the Board in writing on a form prescribed by the Board. The form shall require the applicant to furnish the name of the preneed establishment; certifications that the firm is solvent, has no unsatisfied civil judgments against it, and has not paid a claim on the bond; and any other information that the Board deems necessary and is required by law. The form shall be verified by as correct before a notary public by the owner, a corporate officer, partner, or member of the limited liability company owning the preneed establishment. A preneed establishment may demonstrate solvency by submission of a balance sheet prepared by a certified public accountant that is no more than 90 days old or through other evidence generally recognized as valid by certified public accountants.

Authority G.S. 90-210.67(b); 90-210.69(a).

SECTION .0300 - OPERATIONS

21 NCAC 34D .0303 CERTIFICATE OF PERFORMANCE

(a) The certificate of performance as required by G.S. 90-210.64(a) shall be a form prescribed by the Board and shall require the following information: the names, addresses and preneed funeral establishment license numbers of the performing

funeral establishment and the contracting funeral establishment; the name of the deceased beneficiary of the preneed funeral contract; the date of death and the county where the death certificate was or will be filed; the invoice amount; certification that the contract was or was not performed in whole or in part; the name and address of the financial institution where the preneed trust funds are deposited and the trust account or certificate number; the name and address of the insurance company that issued the prearrangement insurance policy and the policy number; and the amount and the date of the payment by the financial institution or insurance company and to whom paid.

(b) The form shall be completed by each funeral establishment performing any services or providing any merchandise pursuant to the preneed funeral contract, or, if none are performed or provided, by the contracting funeral establishment. The form shall be presented to the financial institution or insurance company for payment. Within 10 days following its receipt of payment, any funeral establishment that is required to complete the form shall ~~mail~~file a copy ~~to~~with the Board.

Authority G.S. 90-210.64(a); 90-210.68; 90-210.69(a).

CHAPTER 46 - BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Pharmacy intends to repeal the rule cited as 21 NCAC 46 .1507.

Proposed Effective Date: January 1, 2009

Public Hearing:

Date: October 15, 2008

Time: 5:00 p.m.

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517

Reason for Proposed Action: *To change the procedure for application for a pharmacy license to reflect changes in licensure examination practices.*

Procedure by which a person can object to the agency on a proposed rule: *Any person may object to the proposed repeal by attending the public hearing on October 15, 2008 and/or by submitting a written objection by October 15, 2008 to Jay Campbell, Executive Director, North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517, fax (919) 246-1056, email jcampbell@ncbop.org. The North Carolina Board of Pharmacy is interested in all comments pertaining to the proposed rule. All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments on the proposed rule.*

Comments may be submitted to: *Jay Campbell, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517, fax (919) 246-1056, email jcampbell@ncbop.org*

Comment period ends: October 15, 2008

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact:

- State
Local
Substantive (>=\$3,000,000)
None

SECTION .1500 - ADMISSION REQUIREMENTS: EXAMINATIONS

21 NCAC 46 .1507 PARTIAL EXAMINATION

Candidates who are found to be eligible for admission to the examinations in all respects except that of practical experience or age or both, may be admitted to all divisions of the examinations except the examination in practical pharmacy. Such a candidate may later take the practical examination when the experience requirement has been satisfied.

Authority G.S. 90-85.6; 90-85.15; 90-85.16.

TITLE 23 - DEPARTMENT OF COMMUNITY COLLEGES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina State Board of Community Colleges intends to adopt the rule cited as 23 NCAC 02C .0110.

Proposed Effective Date: December 1, 2008

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): To demand a public hearing please send the written demand to Q. Shante Martin, NC Community College System, 200 West Jones Street, MSC 5001, Raleigh, NC 27699-5001 or by emailing the demand to martins@nccommunitycolleges.edu. Demands must be received within 15 days of the publication of the proposed rule in the North Carolina Register.

Reason for Proposed Action: The State Board wants to establish guidelines surrounding Intercollegiate Athletics within the Community College System.

Procedure by which a person can object to the agency on a proposed rule: Written objections shall be addressed to President, NC Community College System Office, 5001 Mail Service Center, Raleigh, NC 27699-5001 within the comment period and must be postmarked by 11:59 p.m. on the last day of the comment period.

Comments may be submitted to: Q. Shante Martin, 200 West Jones Street, MSC 5001, Raleigh, NC 27699-5001, phone (919) 807-6961, email martins@nccommunitycolleges.edu

Comment period ends: October 14, 2008

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. If the Rules Review Commission receives written and signed objections 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 919-733-2721.

Fiscal Impact:

- State
Local
Substantive (>=\$3,000,000)
None

CHAPTER 02 - COMMUNITY COLLEGES

SUBCHAPTER 02C - COLLEGES: ORGANIZATION AND OPERATIONS

SECTION .0100 - TRUSTEES AND COLLEGES

23 NCAC 02C .0110 INTERCOLLEGIATE ATHLETICS

(a) No college shall operate an intercollegiate athletics program unless the college maintains a membership in good-standing with the National Junior College Athletic Association. (b) A college shall not participate in intercollegiate athletics unless any foundation associated with the college pursuant to G.S. 115D-20(9) adopts a policy requiring that the total amount of all athletic scholarships awarded to an individual student-athlete does not exceed the participating student's expenses for tuition, college fees, and course-related books and materials required for the courses in which that student is enrolled.

PROPOSED RULES

(c) A college shall not participate in intercollegiate athletics unless the total amount of all athletic scholarships the college awards plus the total amount of all athletic scholarships awarded by any foundation associated with the college pursuant to G.S. 115D-20(9) does not exceed the participating student's expenses for tuition, college fees, and course-related books and materials required for the courses in which that student is enrolled.

(d) State funds shall not be used to create, support, maintain, or operate an intercollegiate athletics program.

(e) Colleges shall neither provide nor offer room and board, as part of an intercollegiate athletic scholarship, to any student

participating in an intercollegiate athletics sport, except for temporary room and board associated with specific athletic events.

(f) For the purposes of this Rule, tuition waivers granted by statute for students participating in any intercollegiate athletics sport shall be deemed to be a scholarship for tuition.

Authority G.S. 115D-5.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday July 17, 2008 10:00 a.m. at 1307 Glenwood Avenue, Assembly 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 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jim R. Funderburke - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Keith O. Gregory
Jerry R. Crisp
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
John B. Lewis
Clarence E. Horton, Jr.
Daniel F. McLawhorn

RULES REVIEW COMMISSION MEETING DATES

August 21, 2008 September 18, 2008
October 16, 2008 November 20, 2008

RULES REVIEW COMMISSION
Review of Current RRC Policies and Procedures

July 8, 2008

MINUTES

The ad-hoc Rules Committee of the Rules Review Commission met on Tuesday July 8, 2008, in the conference room of the Office of Administrative Hearings – Rules Review Commission, Suite 159 of the Methodist Building, 1307 Glenwood Ave., Raleigh, North Carolina. The purpose of the meeting was to review the rules it is proposing for adoption and the comments that have been received from the public. Commissioners present were: Jerry Crisp, Jeff Gray, Jennie Hayman, Dan McLawhorn. Commissioner present by conference call was: David Twiddy. Others in attendance were: Joe DeLuca, Commission Counsel, Bobby Bryan, Commission Counsel, Angela Person and Molly Masich.

Chairperson Jennie Hayman called the meeting to order at 3:35 p.m.

The Commissioners and Commission Counsel reviewed the most recent draft of the proposed rules. Revisions to the draft rules were discussed. Mr. DeLuca will make the revisions to the proposed rules that were discussed and email a draft of the rules to the Commissioners to review by this coming Friday.

The meeting adjourned at 4:30 p.m.

Respectfully submitted,
Angela J. Person
Administrative Assistant

RULES REVIEW COMMISSION

July 17, 2008

MINUTES

The Rules Review Commission met on Thursday, July 17, 2008, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present were: Jerry Crisp, Jeff Gray, Keith Gregory, Jennie Hayman, Clarence Horton, John Lewis, Dan McLawhorn and David Twiddy.

Staff members present were: Joseph DeLuca and Bobby Bryan, Commission Counsel, and Angela Person, Administrative Assistant.

The following people were among those attending the meeting:

Robert M. Ward	City of Burlington
S. C. Kitchen	Durham County
Barry Smith	Freedom Newspaper
Charles Brown	Town of Cary
Lee Hunter	Department of Agriculture and Consumer Services
Barry Block	Department of Justice
Carolyn Bakewell	State Board of Dental Examiners
Bobby White	State Board of Dental Examiners
Nadine Pfeiffer	DHHS/Division of Health Service Regulation
Ellie Sprengel	Department of Insurance
Nancy Pate	Department of Environment and Natural Resources
Jason Robinson	DENR/Division of Water Quality
Alan Clark	DENR/Division of Water Quality
Will Crumbley	Office of State Budget and Management
Palmer Sugg	Broughton Wilkins
Charles Wilkins	Broughton Wilkins
Beverly Speroff	DHHS/Division of Health Service Regulation
Joan Troy	Wildlife Resources Commission
Bill Lane	Kilpatrick Stockton
Ray Starling	Department of Agriculture and Consumer Services
Jane Oliver	Attorney General's Office
Shelley Swaim	Department of Agriculture and Consumer Services
Gary Stamey	Department of Agriculture and Consumer Services
Elaine Chiosso	Haw River Assembly
Ernest L. Nickerson	Department of Insurance
David McGowan	NC Realtors
Allan Williams	City of Greensboro
Ellen Lorscheider	Department of Environment and Natural Resources
Mark Poindexter	Department of Environment and Natural Resources
Donald Herndon	Department of Environment and Natural Resources
Amy Pickle	Southern Environmental Law Center
Denise Stanford	Bailey & Dixon Licensing Board of General Contractors
Mary Ann McBride	Department of Agriculture and Consumer Services
Clyde B. Albright	Alamance County Attorney
Betty Garrett	Guilford County
Joe Jenkins	Centex Homes
Warren Simmons	Guilford County
Anthony Allen	NCACC
L. V. Taylor	Wake County Resident
Paul Wiebke	City of Durham
John Cox	City of Durham
Donald W. Laton	Department of Justice
Adam Riggsbee	Restoration System, LLC
Lisa Martin	NC Home Builders
Sandra Good	NC Real Estate Commission
Molly Masich	Office of Administrative Hearings
Felicia Williams	Office of Administrative Hearings
Dana Vojtko	Office of Administrative Hearings
Julie Edwards	Office of Administrative Hearings
Paula Slonecker	Triad Real Estate and Building Industry Coalition (TREBIC)

APPROVAL OF MINUTES

The meeting was called to order at 10:08 a.m. with Ms Hayman presiding. She reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e). Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the June 18 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

10A NCAC 13D .2210 – Medical Care Commission. The Commission approved the rewritten rule submitted by the agency.

10A NCAC 27G .7102 – DHHS: Division of MH/DD/SAS. No rewritten rule has been submitted and no action was taken.

12 NCAC 11 .0210 – Alarm Systems Licensing Board. The Commission approved the rewritten rule submitted by the agency.

15A NCAC 02B .0262-.0272 and .0311 – Environmental Management Commission. The review of these rules was displaced until the end of the meeting. Jane Oliver, Attorney General's Office, Allen Clarke from the division of Water Quality with the agency, and Elaine Chiosso spoke in favor of rules .0262, .0263, .0264 and .0266. Chuck Kitchen, City of Durham; Lisa Martin, NCHBA Regulatory Affairs; Bill Lane, representing the City of Durham and Paula Slonecker spoke in opposition to rule .0262. Joe Jenkins with Centex Homes spoke in opposition to rules .0265 and .0266. Also speaking in opposition to rule .0266 was Lisa Martin, Regulatory Affairs; Bill Lane, representing the City of Durham; John Cox, City of Durham; David McGowan, NC Realtors. Adam Riggsbee, of Restoration Systems, LLC, an industry consultant, spoke in favor of the rules.

Commissioner McLawhorn made a motion to accept staff recommendations to object to the portions of the rules and for the reasons set out in the staff comments along with the requirement that the agency comply with the technical change requests in those comments. He also added to that motion an objection to Rule .0262 and any similar rule or portion of a rule based on a lack of statutory authority. The specifics of his motion and the complete objections are set out in the attachment "Objections to Jordan Lake Rules 15A NCAC 02B .0262-.0272."

21 NCAC 12 .0204 – Licensing Board of General Contractors. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 57A .0202, .0211 – Appraisal Board. The Commission approved the rewritten rules submitted by the agency.

21 NCAC 64 .0218 – Board of Examiners for Speech and Language Pathologist and Audiologist. The Commission approved the rewritten rule submitted by the agency.

IPC 302.1: NC Building Code Council – Detrimental or Dangerous Materials – No rewritten rule has been submitted and no action was taken.

LOG OF FILINGS

Chairman Hayman presided over the review of the log of permanent rules.

Prior to the review of the rules from the Department of Insurance, Commissioner Twiddy recused himself and did not participate in any discussion or vote concerning these rules because he is a licensed insurance agent.

Prior to the review of the rules from the Board of Dental Examiners, Commissioner Crisp recused himself and did not participate in any discussion or vote concerning these rules because he has a daughter who is a Dental Hygienist.

Prior to the review of the rules from the Medical Board, Commissioner Lewis recused himself and did not participate in any discussion or vote concerning these rules because he is a member of the Medical Board.

Prior to the review of the rules from the Real Estate Commission, Commissioner Twiddy recused himself and did not participate in any discussion or vote concerning these rules because he is a Real Estate Broker.

All rules were approved unanimously with the following exceptions:

02 NCAC 52J .0203, .0210, .0302, .0401, .0402, .0403, .0404, .0405, .0406, .0501, .0601, .0602, .0603, .0604, .0605, .0606, .0607, .0608, .0609, .0701, .0702, .0703, .0704, .0705, .0801, .0802, .0803: Board of Agriculture – The Commission extended the period of review in order to give time to see what happens at the General Assembly on the bill directly related to these rules. Mr. Ray Starling from the Department of Agriculture spoke in support of these rules.

10A NCAC 46 .0301: Commission for Public Health – This rule was withdrawn and submitted for consideration at the August meeting.

15A NCAC 13B .0101 and .0201: Commission for Public Health – Commission Counsel Deluca had originally recommended that the Commission object to these rules on the basis of ambiguity and lack of statutory authority. However he subsequently determined that the recommendation applied to terms and requirements that no longer applied. He subsequently recommended that the Commission approve the subsequent changes to reflect that the rules no longer applied to ongoing activities. Commissioner Gray made a motion to withdraw counsel’s recommendation and approve the rules contingent on receiving the rewritten technical changes from the agency. The technical changes were received.

21 NCAC 16H .0203: Board of Dental Examiners – The Commission objected to the revised rule responding to a request for technical changes. It did this based on ambiguity and lack of statutory in the revised rule. It is unclear what standards the Board will use to approve training courses. If the standards are set outside rulemaking, they are not authorized.

21 NCAC 16I .0104: Board of Dental Examiners – The Commission objected to this Rule based on ambiguity. In (c)(2) it is unclear what is meant by “affiliation” with one of the listed agencies. In the past this was not found objectionable, probably because any sort of “affiliation” for any period of time would presumably qualify the dental hygienist for the four hours of continuing education credit for the year. However, with the amendment adding (e), it now makes the rule unclear. Presumably any affiliation, even one at less than 20 hours per week, would qualify the hygienist for four hours of credit under (c). But if one worked “at least 20 hours per week” in such an institution, then the person would be entitled to receive only two hours credit. This would not seem to be the intended outcome. In order to make it clear the agency must define what it means by “affiliation” in (c)(2) or delete the reference to (c)(2) in (e).

21 NCAC 16R .0106: Board of Dental Examiners – The Commission objected to this Rule based on ambiguity. In (c)(2) it is unclear what is meant by “affiliation” with one of the listed agencies. In the past this was not found objectionable, probably because any sort of “affiliation” for any period of time would presumably qualify the dentist for the four hours of continuing education credit for the year. However, with the amendment adding (d), it now makes the rule unclear. Presumably any affiliation, even one at less than 20 hours per week, would qualify the dentist for four hours of credit under (c). But if one worked “at least 20 hours per week” in such an institution, then the person would be entitled to receive only two hours credit. This would not seem to be the intended outcome. In order to make it clear the agency must define what it means by “affiliation” in (c)(2) or delete the reference to (c)(2) in (d).

COMMISSION PROCEDURES AND OTHER BUSINESS

The Commission adopted the RRC rules from the Ad-Hoc meeting held on July 8, 2008 after some errors were corrected and stylistic changes made. Mr. McLawhorn thanked staff for finishing the RRC rules.

The meeting adjourned at 2:20 p.m.

The next scheduled meeting of the Commission is Thursday, August 21 at 10:00 a.m.

Respectfully Submitted,
Angela J. Person
Administrative Assistant

OBJECTIONS TO JORDAN LAKE RULES 15A NCAC 02B .0262-.0272

RULE CITATION: 15A NCAC 02B .0262 -- .0272

The RRC objected to portions of all these rules except for .0272 for various reasons as set out below. Because it is unclear how those objections will be resolved it also objected to that remaining rule based on ambiguity. It is unclear how the approved rule could be applied without determining the effect on that rule of the resolution of the other rules.

The RRC also objected to any rule for which a technical change was requested and not made based on a failure to comply with G.S. 150B-21.10, last sentence: “... the Commission may request an agency to make technical changes to the rule and may condition its approval of the rule on the agency’s making the requested technical changes.”

The RRC did not object to Rule 02B .0311 and the agency may either send this to the codifier to await legislative review or allow it to remain under review with these other rules as provided in G.S. 150B-21.3(b1) and (b2).

Note: In this document TCR means a “Technical Change Request.”

RULE CITATION: 15A NCAC 02B .0262

Objection: Entire Rule Ambiguous

This entire rule is ambiguous and leads to ambiguity in other rules.

There is no rule setting out what these rules cover or their purpose. In a set of rules such as these it would be much easier to comprehend if there were one rule introducing the rules and explaining their “purpose and scope.” Each of these rules appears to be a single self-contained rule that refers to other rules to the extent necessary to understand that rule. However, they are actually a set of rules that need to be read and understood in the context of all the other rules.

The entire set of rules would be easier to comprehend if the first rule were simply a “Purpose and Scope” rule used to explain what the entire set of rules does. Agencies often use such a rule to explain what the remainder of the rules in a section are about. In this case it could also be used as a more complete index to indicate what the remaining rules cover and where they are found rather than the current listing of the rule titles at the far removed beginning of the chapter.

The definitions found in these rules are ambiguous because their location is difficult to determine and for other reasons set out below and in the explanation for objections throughout this document.

There must be added, either as a part of this rule or as a second rule, a “definitions” rule. If they were added to the first rule it would make that rule “Purpose, Scope, and Definitions.” There are many definitions scattered throughout this chapter. While those definitions are set out where the terms are most important and most often used, and as written apply only to the specific rule, those terms may be used in other rules and should have the same meaning. Having all those definitions at the outset would make that clearer.

The definitions found throughout these rules state that they apply “for purposes of this Rule” in the individual rules in which they are found. Undoubtedly the same definition would actually apply to the same word wherever it was found anywhere else in these rules. For example the definition of “tree” is found in Rule .0267(2)(t) and according to that rule applies only to that rule. However it is critical to an understanding of the requirements of Rule .0268 dealing with enhancement and restoration of buffers to know the definition of a tree. Rather than searching through each of these rules and requiring the agency to make a reference to where the definition of an otherwise undefined term is found, the RRC objected to all these rules and is requiring that the agency write a definitions rule in order to satisfy this objection.

Objection: Introductory paragraph, line 5 Ambiguous

(This was originally a technical change request that was not complied with.)

It is unclear whether the reference in line 5 to “Jordan watershed” as the referential term for the “B. Everett Jordan Reservoir and all lands and waters within its watershed” is the only referential term used. It appears that it is not and is thus ambiguous since the agency appears to refer to it in a number of different ways including “Jordan Reservoir” or “Reservoir.” If those terms also refer to the watershed, then they should be referenced here or changed to “Jordan watershed.” If they are not referential terms for the “Jordan watershed” then it is unclear what they do refer to.

If there is a distinction between any of the references to “watershed” and any of the references to “Reservoir,” that is not clear and must be resolved.

Objection: Introductory paragraph, lines 15 – 17 Lack of Authority

This rule is in excess of the EMC’s statutory authority. It is in excess of that authority to the extent the EMC tells local governments that they have to do something other than comply with the requirements in a model ordinance that is presented by the EMC to regulate these subject issues. (And the EMC has yet to style these rules as a model ordinance.) To the extent they are telling local governments how they have to regulate other people, it is in excess of their statutory authority because they do not follow the model ordinance process set out in G.S. 143-215, especially paragraph (d). This particular objection also extends to any other rule or portion of a rule that dictates to local governments how they have to adopt ordinances to regulate other people. That would appear to be at the least Rules .0265, .0266, and .0267. This can only be done through the model ordinance process that is in the statute.

Objection: (1) line 19 Ambiguous or Unnecessary

(This was originally a technical change request that was not complied with.)

It is unclear what “particularly” in (1) line 19 means. It is either ambiguous or unnecessary. It is difficult to understand what the word adds to the meaning of that sentence. If it does have some specific meaning it is unclear what that meaning is.

Objection: (3)(a)(1) page 2 line 19 Ambiguous or Unnecessary

(This was originally a technical change request that was not complied with.)

In (3)(a)(i) it is confusing to define a word or acronym “(TMDL)” in terms of a parenthetical expression within a single rule since this is a term that occurs other places in this rule and other rules. If a person does not remember its meaning it might be hard to locate it here. It should be set in a separate definitions rule.

Objection: (3)(a)(1) page 2 lines 20 – 22 Ambiguous or Unnecessary

(This was originally a technical change request that was not complied with.)

In lines 20 – 22 and in other places in this and other rules, this rule refers to a “point [or nonpoint] source mass load target.” In Rule .0270(4)(a), page 3 line 13 and other places, that rule refers to, what I believe is the same thing, but uses the term “wasteload.” If they are the same, then the agency should consistently use the same term to avoid any confusion, misunderstanding, or perplexity as to whether they mean the same, or at least have a definition that specifies they mean the same. If they have different meanings, then the meaning of the two terms is unclear and they need definitions.

TCR: In (5), page 3 line 36, the agency still needs to correct the formatting of the comma added after the second “sources,” later in that line.

(This was originally a technical change request that was not complied with.)

Objection: (6), (6)(a) and (6)(b), pages 4 and 5 Ambiguous

(Portions of this were originally technical change requests that were not complied with.)

In (6) it is unclear which local governments, counties or municipalities “in part or in whole” (line 20) are responsible for implementing these requirements. Presumably that would be revealed in the remainder of the rule. But it is not and the rule is unclear.

In 6(a) it is unclear what it means for incorporated municipalities to be “primarily” liable to implement the enumerated rules. It is unclear whether if they do not do the implementation someone else (presumably the counties) is “secondarily” liable with no penalty or sanction for the “primarily liable” party. Since rule (6)(b) refers to counties implementing these requirements where municipalities “do not have an implementation requirement” it is unclear whether the municipalities who are “primarily” liable in (6)(a) and choose not to or do not implement the requirement make the counties responsible for implementing the requirements if the municipalities choose not to do the implementation.

If it is a “primary” responsibility and not a sole responsibility it is also unclear what time limits apply for the municipalities and then the counties to take action. In other words if a municipality is “primarily” liable, does it have an actual “implementation requirement?”

Objection: (6)(c) page 5 lines 30 – 32 Ambiguous and Lack of Statutory Authority

In (6)(c) it is unclear what standards the division shall use in approving the local government implementation agreement. If those standards are set outside rulemaking, there is no authority to do so.

Objection: (7) Ambiguous

The timeframe for complying with the various components of these rules is unclear. It seems that the time set out in (7) of this rule, “at least five years of implementation” before making any adjustment differs from the time frames in other rules. The other rules are all addressed to particular components of the strategy, such as agricultural uses (Rule .0264) and reducing the non-point source contribution from agricultural activities.

If the particular should control over the general, then perhaps the rules are perfectly clear and the RRC concern could be addressed by the technical change requested last month and not complied with:

TCR: In (7), page 5 line 31 [now line 34], insert “Unless a different timeframe or deadline as set in one of these rules apply” or similar language after “Adaptive Management.”

However as this rule and the others are written, with no reference to any other rule, then the rule is unclear.

The RRC will review the timeframes and deadlines in the entire set of rules when the EMC is satisfied they have removed any ambiguity in all these rules.

Objection: (7) page 6 line 10 Ambiguous or Unnecessary

In (7), page 6 lines 5 and 6, since the adjustment is to be done by rulemaking as set out earlier in this rule (page 5 line 35), it is unclear what role the Commission would have in approving the adjustment after it has gone through rulemaking. Presumably any adjustment they set in rulemaking would meet with the Commission’s approval.

Objection: (7) last sentence Ambiguous and Unnecessary

If the last sentence in (7) means that the EMC may also have to look at other criteria and conditions than they have at present and incorporate those into the modeling that they do, then that is not a requirement or prohibition that applies to or affects this rule and its meaning is unclear. It is not a standard and not necessary for this rule. When they engage in any future rulemaking to adjust the initial loading goals set in this rule, they may use any method they desire. The use of that last sentence here is unnecessary and may be confusing if persons believe that it involves any sort of requirement or restriction at this time.

RULE CITATION: 15A NCAC 02B .0263

Objection: (1) lines 9 – 12 Ambiguous

In (1) it is unclear what constitutes the correct “nutrient application” requirements. There is a reference to using “the most current state-recognized technical guidance” but it is unclear what that is or how a person knows what to use.

Objection: (2)(d), lines 32 – 33 Ambiguous

(This was originally a technical change request that was not complied with.)

In (2)(d) the applicability of this rule extends to “a hired applicator who does not own or lease the land to a total of at least 5 acres per year.” This is ambiguous in two different ways.

The first ambiguity is that it is unclear who or what constitutes an “applicator.” The RRC believes this term, along with “technical specialist” in (5)(d) refer to specific persons whose definitions and qualifications are found in other rules (that are not a part of these rules and may or may not apply to these rules). But that is not stated and there is no definition for these terms in these rules. The terms are thus ambiguous and need definitions.

The second ambiguity is that it is unclear whether the 5 acres is owned by one person or are owned cumulatively by more than one person. In other words it is unclear whether the 5 acres is total acres applied by one applicator regardless of who or how many owned those acres or total acres owned by one landowner.

Objection: (5)(a) page 3 line 23, and (5)(d) page 5 lines 16 – 17 Ambiguous

In (5)(a) and (d) the applicability of this rule extends to using “an appropriate technical specialist.” It is unclear who or what constitutes “an appropriate technical specialist.” The RRC believes this term, along with “hired applicator” in (2)(d) refer to specific persons whose definitions and qualifications are found in other rules (not part of these rules). But that is not stated and there is no definition for these terms in these rules. The terms are thus ambiguous and need definitions.

Objection: (5)(a) and (e) Ambiguous

The structure of this paragraph is unclear. It would be more logical for (5)(e), page 4, to be moved to immediately after (a), page 3. Paragraph (5)(a) excludes the applications that are the subject of (e) and it would make more sense to have the application requirement for the exceptions to follow the paragraph where the requirement is excluded.

Objection: (5)(e), page 4 line 36

The agency failed to comply with G.S. 150B-21.10 (last sentence) of the APA and make the requested technical change by changing “additions” to “editions.”

Objection: (6) page 5 Ambiguous

In a similar manner as the proposed objection to (5)(a) and (e) above concerning the structure of that rule, the structure of this item makes the rule unclear. It would be easier to understand the compliance timetable in (6), page 5, if it were rewritten from the earliest deadline to the last. The agency should also add labels to the rule and give it an introduction. For example:

- (6) COMPLIANCE: The following constitute the compliance deadlines for this rule:
- (a) For proposed new application of residuals and septage ... as of its effective date; [lines 19 – 21]
 - (b) For existing, ongoing application ... requirements of this Rule; [lines 15 – 19]
 - (c) For all other applications with the exception of ... Class A bulk ... subject to this Rule ~~on and~~ after that date. [lines 11 – 15]
 - (d) Persons who fail to comply ... (injunctive relief). [lines 21 – 23]
- If this is not the intent of this rule, then the rule is unclear.

RULE CITATION: 15A NCAC 02B .0264

COMMENT:

Objection: (1) lines 10 and 11 Ambiguous

The timelines in this rule (and throughout the rules) is not always clear.

In (1) of this rule the purpose is stated “to achieve the initial goals set out in Rule 15A NCAC 02B .0262 within six to nine years (emphasis added). That seems to imply that the “initial goals” should be given at least six years. However the referenced rule in (7) states that those goals may be adjusted after five years. It should be noted that the goals in this rule were changed from “five to eight years” to “six to nine years,” which makes it unclear whether the two rules are supposed to be in agreement on the beginning timeframe. Also in (4), at the bottom of page one and the top of page 2, this rule implies that there can be further rule impositions if those subject to it do not attain their goal “within six years,” not “six to nine years.” While it appears the two rules can be harmonized by reading them to say that the goal is to reach the goals set in the first rule anywhere from six to nine years after the rule goes into effect, and in some specific cases, such as (4) of this rule, in six years, the agency can adjust them anytime after five years. If that is the intent, then the two rules need to more clearly express this. If that is not the intent then it is unclear what deadlines the rule imposes.

It is also not clear what the difference, if any, is between “initial goals” as used in line 10 of this rule and elsewhere, and “goals” as used in Rule .0262, which appear to be the “initial goals” referenced in this rule.

Objection: (4), lines 33 and 34 Lack of Statutory Authority

In (4) this rule allows the division director to apply this rule to other persons not currently affected by this rule. That would constitute a new rule since it would then affect persons not currently affected by the rule. There is no authority to delegate that rulemaking power to anyone else.

Objection: (4)(c)(viii), page 2 lines 16 and 17 Ambiguous

In (4)(c)(viii) it is unclear whether the combined weight category includes the animals in the categories (i) – (vii) or whether it is the combined weight of “any other livestock or poultry” (and not included above) that the application of this rule is intended to apply. If it is intended to apply to the items already listed then it needs to be made clear that it is, e.g. “either 5 or more horses or any number of horses with a combined weight ...” (or similar language) that is the focus of this rule.

Objection: (5)(b) , page 3 line 4 Ambiguous

The nitrogen goal in (5)(b) is unclear. The goals and timelines throughout these rules are unclear. The problem with timeline concerning the nitrogen and phosphorous goals has already been raised. That problem presents itself here and might be satisfied either here or in addressing other rules. It appears the timeline would require five or six years to achieve the nitrogen goal; it is not clear what the deadline is.

Objection: (7)(b)(i), page 5 lines 31 through 33 Ambiguous and Lack of Statutory Authority

In (7)(b)(i) the rule requires that methods developed by the Watershed Committee be submitted to the EMC for approval. It is unclear what standards the Commission shall use to approve these methods. If the standards are set outside rulemaking, there is no authority to do that.

Objection: (8)(a)(i) – (iv), page 8 Ambiguous

It is unclear whether “local” in this rule means a person is from a particular county or municipal government, or watershed or subwatershed subject to this rule. It is also unclear when applying it for the purpose of determining whether someone is eligible for inclusion in the membership of this committee whether it is domicile, ownership, work, or some other characteristic or combination of characteristics that determines whether a person is a “local” person.

Objection: (8)(b) , page 8 line 29 **Ambiguous**

In (8)(b) it is unclear what is meant by “jointly appoint.” It is not clear if that means that both officials must agree on each person over whom they have appointing authority or whether between the two officials, either individually or together, they will appoint the committee members.

RULE CITATION: 15A NCAC 02B .0265

Objection: Lack of Statutory Authority

This rule seems to be one of the rules that lacks statutory authority to the extent it imposes certain obligations on local governments that exceed the EMC’s authority. Please see the analysis for Rule .0262 which begins on page 1 of this document. The relevant portion of that objection is found on page 2, the objection to the introductory paragraph of the rule, lines 15 – 17, based on lack of authority.

Objection: (1) line 5 **Ambiguous**

The meaning of “new development” is unclear. In (1) line 5 and elsewhere in this rule it is unclear what it is about development that must occur after the effective date of the programs to make that development “new development” and subject to these rules. Is it when plans are submitted, approvals given, permits issued, ground clearance begun, actual house construction started, or some other time? There is no definition for the term.

Objection: (3)(a)(i) **Ambiguous or Unnecessary**

It is unclear in this portion of the rule whether there is a formula in this rule for establishing loading rates that will vary from “developable land” to “developable land” (page 1 line 36) within a watershed or whether there is a rate fixed by this rule and the formula is irrelevant. It is also unclear who must do the calculation, if such a calculation is required. If the formula and calculation is not required, then it is unnecessary.

The first part of the rule (at the bottom of page 1 through line 1 of page 2) appears to set out a “calculation” and requires someone to make the calculation. But in the next part of this rule, beginning on page 2 at line 2, the rule sets “initial values.” If these values are the result (and the only possible result) of performing the calculation, then the formula and instructions are unnecessary since the agency can use any (non-arbitrary or capricious) formula it wants in setting the values that are then set in the rule. If the calculation would produce a different result, it is unclear why the agency sets “initial values,” and also which, the calculation or the formula, is to be applied.

Even if the two values, one established by formula and the other set in rule, agree, it is unclear why the two methods are set out. Only one is necessary: either set the value by rule or set the formula for establishing the value by rule.

Objection: (3)(a)(i) , page 2 lines 6 – 8 **Ambiguous and Lack of Statutory Authority**

If the value above is fixed, there is no authority to change that value outside rulemaking.

Objection: (3)(a)(ii), page 2 line 13 **Ambiguous**

It is unclear what constitutes a “linear utility project” since there is no definition set out for this term in this or any other rule.

Objection: (3)(a)(iv), page 2 lines 24 – 25 and 35 – 36 **Ambiguous**

In (3)(a)(iv) it is unclear whether there needs to be a reference to a period of time, such as 24 hours, during which the “one inch of rainfall” may occur. It seems to me that the design for handling stormwater would depend largely on how quickly the rainfall accumulated.

Objection: Item (3)(a)(iv), page 2 lines 25 – 29 **Ambiguous**

It is unclear how this “guidance,” requiring certain methods of stormwater runoff treatment, is to be enforced. Since the agency has not incorporated this by reference, it is staff’s opinion they have no authority to enforce it. If they have no enforcement authority it is unclear what the affect of such a requirement would be.

TCR: In (3)(a)(vii) lines 21 – 23 the formatting of the deleted language needs to be corrected.

TCR: In (3)(a)(vii), page 3 lines 30 – 35, the agency needs to verify whether other mitigation banks are acceptable in light of any session law changes, especially SB 1885.

Objection: (3)(a)(vii), page 3 lines 35 - 37 **Ambiguous and Lack of Statutory Authority**

In (3)(a)(vii) it is unclear what constitutes the approval standards the Division shall use to approve the local government offset options. If those standards are set outside rulemaking, there is no authority to do so.

TCR: In (3)(d), page 4 line 17, please change “Jordan watershed” to “the Jordan watershed.”

Objection: (3)(d)(v) , page 4 line 24 **Ambiguous**

In (3)(d)(v) it is unclear what constitutes other “development-related requirements” in Rule .0104. In lines 16 – 23 the rule sets specific requirements in (i) – (iv) from that rule that are imposed. Then it states in (v) that “other development-related requirements” shall also apply. It is unclear what those requirements are.

Objection: Item (4)(a), page 4 lines 33 – 36 **Ambiguous**

The analysis for this parallels the analysis in (3)(a)(iv).

It is unclear how this “guidance,” requiring certain methods of accounting for nutrient loading, is to be enforced. Since the agency has not incorporated this by reference, it is staff’s opinion they have no authority to enforce it. If they have no enforcement authority it is unclear what the affect of such a requirement would be.

RULE CITATION: 15A NCAC 02B .0266

Objection: Lack of Statutory Authority
This rule seems to be one of the rules that lacks statutory authority to the extent it imposes certain obligations on local governments that exceed the EMC’s authority. Please see the analysis for Rule .0262 which begins on page 1 of this document. The relevant portion of that objection is found on page 2, the objection to the introductory paragraph of the rule, lines 15 – 17, based on lack of authority.

Objection: Item (1) line 13 Ambiguous
It is unclear what is meant by “steady progress” in line 13. It is also unclear what the sanction for failure to make “steady progress” would be as opposed to the possible sanctions under the rules and authorizing statutes for a failure to enact or enforce the requirements of these rules.

Objection: Item (1)(a) lines 23 and 24 Ambiguous
It is unclear what constitutes “structural improvement” in line 23.

Objection: Item (3)(a)(ii), page 3 lines 8 and 9 Ambiguous
As in (1) of this rule it is unclear what is meant by “steady progress” in(3)(a)(ii). It is also unclear what the sanction for failure to make “steady progress” would be as opposed to the possible sanctions under the rules and authorizing statutes for a failure to enact or enforce the requirements of these rules.

Objection: Item (3)(a)(iv), page 3 line 20 Ambiguous
In (iv) it is unclear against what a “local government may credit” any excess reductions obtained over those required by other rules. These are reductions beyond what is required those other rules. Presumably the context would indicate they could be applied against this rule, but that is not stated. Given the magnitude and complexity of this rule it would seem that all aspects of the rules should be stated clearly.

Objection: Item (3)(a)(vii), page 4 line 15 Ambiguous
In (3)(a)(vii) reference is made to an “accounting method” under “Sub-Item (4)(a).” There does not appear to be any “accounting” method in that portion of the rule and it is unclear what “accounting method” is referred to or whether the “accounting method” is actually something else.

Objection: Item (4)(c), (d), (f) and (g) Ambiguous or Lack of Authority
It is unclear what standards the Division will use to approve the local government’s administrative (c) and reduction programs (f) and what standards the Commission shall use to approve those programs in (4)(d) and (g).

Objection: Item (4)(j), page 6 lines 29 and 32 Ambiguous
In (j) it is unclear what constitutes “at the earliest feasible date.”

Objection: Item (4)(l) Object – Ambiguous and Lack of Statutory Authority
There is no authority to change certain critical standards without going through rulemaking. Even if there were the authority to change them, there are no standards set in the rules, or at the least it is unclear what those standards are, to give the director guidance or those subject to the rules some predictability or basis to challenge the director’s decision.

It is also possible that the timeline in the rule is unclear. That is especially possible given the other problems with the timelines in this rule. The RRC objected to the timeline in this rule. After the agency makes changes in this rule or any other rule to satisfy various problems with or objections to the timelines, the RRC will determine whether this or any other rule needs any further correction.

In (4)(l) the division is required to review certain methods and values and then the director shall approve the changes. The five year minimum period for review seems in keeping with the other timelines in these rules, although in some cases it appears that a longer timeframe may be acceptable. For example Rule .0262(7) (page 5/7 of the rule) refers to adjustment of values “after at least five years,” not before. The more serious problem is at the end of (4), page 7 lines 4 – 6 where the director “shall approve changes” to “the accounting method or reduction assignments.” These are critical methods and values, set in the rules now.

TCR: In (5), page 7 line 13 please verify the reference to “Sub-item (4)(b).” it appears to me that it would be more appropriate to refer to (4)(c) or some other sub-item.

RULE CITATION: 15A NCAC 02B .0267

Objection: Lack of Statutory Authority
This rule seems to be one of the rules that lacks statutory authority to the extent it imposes certain obligations on local governments that exceed the EMC’s authority. Please see the analysis for Rule .0262 which begins on page 1 of this document. The relevant portion of that objection is found on page 2, the objection to the introductory paragraph of the rule, lines 15 – 17, based on lack of authority.

Objection: Item (2) Ambiguous and Lack of Statutory Authority

In (2)(b) the definition of “archaeological activities,” is either ambiguous or outside the agency’s rulemaking authority. The term appears to be used in only one place in the rule. On page 11 in the third box from the bottom “archaeological activities” are exempt from regulation under the restrictions that are imposed on activities within the riparian buffer zone.

These activities are defined in terms, not of what constitutes archaeology, but in terms of who is doing it. To the best of my knowledge in the state of North Carolina one does not have to be a registered archaeologist to engage in the practice of archaeology or even to call yourself one. In effect this rule imposes that registration requirement and thus sets a job qualification to engage in that practice. The agency has cited no authority to set this job qualification.

The agency defined the term using only a title of who does the practice, not in terms of the practice itself, and this exceeds their authority. There is no actual definition of what constitutes this type of activity, and the definition supplied is unclear.

Note that the RRC is of the opinion that no definition is required, only that this definition itself is not clear. The term itself has a certain common sense definition, a dictionary definition, and most likely a common law definition. In this particular case these could be sufficient, without further defining it in the rule. However, if the agency wishes to restrict this activity or have more control over the activity that is allowed or forbidden, then the agency needs to provide a definition in terms of what is allowed or forbidden.

TCR: In (2)(c), page 2 line 11 the formatting of the deletion of the errant apostrophe following “thereof” is incorrect. Also the word “of” before “thereof” should be deleted.

(This is a request for technical change addressing a change that was previously requested.)

Objection: Item (2)(p) , page 4 lines 15 through 24 Ambiguous

In (2)(p) it is unclear what the definition of “stream” is until you reach the end of the definition for “stream restoration” and would not likely be found if you were simply looking for “stream.” The definition of “stream” should be a separate definition, not part of the definition of “stream restoration.”

TCR: In (2)(r), page 4 line 27, there are two errant registered trademark symbols inserted into the rule, probably when the rule was undergoing other technical changes.

Objection: Item (4)(c)(iii) , page 6 lines 1 – 5 Ambiguous or Lack of Statutory Authority

It is unclear what the standards are in (4)(c)(iii) for approving “other more accurate mapping” if they are not already found within the rule. However the rule does not make it clear they are found in the rule and implies they may be set by either the division or the commission outside the rule. There is no authority to set those standards outside rulemaking. It may be that it is the definition of “other more accurate mapping” that is unclear, and if it were clear what is meant by that term further standards would not be necessary.

Objection: Item (4)(h) , page 6 line 26 Ambiguous

In (4)(h) it is unclear what the term “development” means or includes. There is no easily found definition for that term in these rules. Yet that is a term used throughout these rules and many of the rules apply different requirements depending on whether the development is new or existing.

Objection: Item (7)(a)(i) and (ii), page 9 Ambiguous

In (7)(a)(i) it is unclear where to measure the beginning of the landward limit of the buffer when both “rooted herbaceous vegetation” and “the top of the bank” are separate and identifiable beginning points.

In (7)(a)(ii) it is unclear where to measure the beginning of the landward limit of the buffer when both “rooted herbaceous vegetation” and “the edge of the surface water” are separate and identifiable beginning points.

Objection: Item (8)(c) Failure to Comply with the APA, specifically G.S. 150B-21.2(g)

The addition of a prohibition against “new stormwater conveyances” through a buffer is a substantial change. It either affects the interests of persons who, based on the proposed text of the rule published in the NC Register, could not reasonably have determined that the rule would affect their interest or produces an effect that could not have been “reasonably expected” base on the original notice of text. This objection will require either republication in the NCR as set out in G.S. 150B-21.2(g) or deletion of the substantial change.

Objection: Item (9) Ambiguous

The RRC is concerned that there are a number of places in the Table of Uses spread out on pages 11 – 23 where the “X”s are not correctly marking the apparent spot where they belong or do not appear to be in any column. There are also a number of places where the * footnote indicating how to qualify for each designated use does not always end up on the bottom of the page or ends up in two places on a page.

This could be more of a formatting and publication issue that will be automatically corrected as the rule is translated to the print and electronic published form. However the Commission will withhold its approval of this rule and object to it until the agency assures the RRC that the X’s and footnotes will be in the proper location.

Objection: Item (9), Temporary Roads Usage, page 19 and “Temporary sediment and erosion control devices” usage, page 20 Ambiguous

It is confusing to list what happens “at the end of five years” before the fact that “a one-time application of fertilizer may be used” when that use would most likely be in the early stage of restoring the pre-construction buffer conditions. These should be reversed.

The same issue applies to “Temporary sediment and erosion control devices” usage on page 20.

TCR: In (11), page 25 line 16, remove the single quotation marks and place double quotation marks around “no practical alternatives.”

TCR: Closely related to this in (11)(c), page 26 line 19, delete the comma immediately following the double quotation mark after “no practical alternatives.”

Objection: Item 11(c)(v) , page 26 lines 29 and 30 Ambiguous

In (c)(v) it is unclear what is meant by “otherwise unavailable.” Since this allows or requires a local government to delay issuing a decision it must be clear what is meant.

Objection: Item 12(a)(iii) and (vi), pages 27 and 28 Ambiguous

It is difficult and confusing to distinguish the difference between the standard in (12)(a) sub-item (iii), page 27, and the standard in sub-item (vi), page 28. It is unclear what the difference is between the two and what the difference in any standards is. In (iii) it is a hardship “due to the physical nature of the applicant’s property ... which is different from that of neighboring property.” In (vi) the hardship is “unique to the applicant’s property ... [not] conditions that are widespread.”

It is also not clear what constitutes “neighboring” property. Does it mean that the properties must share a common border or can there be some separation between the two?

Even if there is a difference between the two parts of the rule that is clear, in (vi) it is unclear what constitutes a hardship that is “unique ... [and not] widespread.” Unique means one of a kind or the only one. Even if the conditions cannot be “widespread” that implies that the conditions may occur at more than one place.

The second sentence in (vi) is unnecessary and possibly confusing. It is not a standard for granting or denying the variance request. It is unclear what “equally subject to the hardship created in the restriction ... a variance would be a special privilege denied to others, and would not promote equal justice” means.

Objection: Item 12(e)(iii), page 29 lines 8 and 9 Ambiguous and Lack of Statutory Authority

There is no authority cited for the provision in (12)(e)(iii) requiring the local government to rubber stamp the EMC’s decision and issue it as the local government’s decision.

Even if there were authority, it is unclear what the route of appeal is from the major variance request denial. In the case of a final decision by the EMC denying the request, appeal would be by instituting a contested case hearing under the APA. In the case of a denial of a request by a local government, appeal of that decision would normally be by instituting a civil case in superior court. Here the local government has no further decision making, since they have been ordered by these rules to issue a decision denying the request.

Note: Even if the EMC provides authority for this rule or rewrites the rule in a way that is authorized, the EMC should still state its position as to what route of appeal the applicant should follow. That might help to eliminate some confusion and could certainly forestall the agency from later denying the person had taken the correct avenue of appeal if they did what the agency said. This could also be done in the form of a note that sets out the agency’s position, rather than as another sentence in a rule. It is appropriate to add that commission counsel is normally opposed to statements in rules that are legal conclusions, such as any statement here about what avenue of appeal someone would have from a request denial. In this case it would be appropriate to have such a statement.

TCR: In (12)(e)(iii), page 29 line 8, delete the inadvertently inserted copyright symbols that apparently were added making other changes.

TCR: Staff had previously requested that in (14)(a)(i) – (ix) change the periods at the end of each sub-item to semicolons and add the word “and” following the last semicolon with no further punctuation. The change was not made in (viii).

Objection: Item (14) , page 30 lines 12 and 13 Lack of Statutory Authority

In (14)(b) there is no authority cited for the EMC to set the job qualification (be a registered professional forester) to prepare a forest management plan.

Objection: Item (16), page 32 lines 17 and 18 Ambiguous and Lack of Statutory Authority

The agency responded to a TCR and specified that the more protective of “this rule ... other laws, regulations, and permits” that related to “any such landscape feature or water quality-related activity” would be what would apply.

It is now apparent that the rule is unclear as to who is to make that decision. It also is beyond the agency’s authority to order someone to comply with one rule or statute if in so complying they are forced to violate another rule or statute.

TCR: In 17, page 32 line 20, in complying with the previous **TCR** the formatting of the change from “all federal” to “all other federal” is not shown and there is no longer a period at the end of the sentence.

RULE CITATION: 15A NCAC 02B .0268

Objection: Items (4), (5), and (6) page 2, and (7)(c)(i) page 3 Ambiguous

It is unclear the location that is allowed as mitigation property under (4), (5), (6), and (7) .

Item (6)(b) allows someone to meet a mitigation determination by donating an interest in real property “pursuant to Item (7).” But Item (5) specifies that the local government “shall specify the ... location of mitigation” according to Item (4). That item (4), The Location of Mitigation, states that the location of the mitigation property must be “within the same subwatershed of the Jordan watershed [as the damaged property]. However Item (7)(c)(i) also specifies where the mitigation property may be located and that area appears to be considerably larger than and outside the location required in (4)

Objection: Items (4), (5), and (6) page 2, and (7)(c)(i) page 3 Object – Ambiguous

Objection: Item (4)(a), page 3, and subsequently Ambiguous
It is unclear whether “load” and “wasteload” are the same. In Item (4)(a), page 3, and subsequently this rule refers to “wasteload” allocations. It appears that the same term is referred to as “load,” either nitrogen or phosphorous, in Rule .0262 and other rules. Presumably they are the same, but either the same term should be used consistently or there should be a definition that provides they mean the same. If there is any distinction between the two terms that is not stated and the rules would be ambiguous.

Objection: Item (6), page 4 line 26 Ambiguous
It is unclear whether other rules than this one might also “specify nutrient controls for existing discharges.” In Item (6) it appears that this would be the only rule specifying nutrient controls for those dischargers. However Item (9) “describes additional requirements regarding nutrient discharge limits” for wastewater facilities. It would appear those facilities would come under both sets of rules, but Item (6) does not make that clear.

Objection: Item (6), page 4 Ambiguous and Lack of Statutory Authority
It is unclear whether this might be an attempt to amend a municipality’s NPDES permit or require the municipality to amend its permit. There is no authority cited for the state agency to do this or to require the local government to do this. It is not clear, and there is no direct authority cited that allows a state agency to order this done, whether done by, through, or for a local government. There is also no authority cited to require the permit holder to make application for a change in its permit.
The same problem applies in Item (9) page 7.

Objection: Item (7) page 5 line 19 Ambiguous
It is unclear in this portion of the rule for the same reason set out above whether this item is the only item that applies to “new discharges.” It would appear that Item (9) pertaining to wastewater facilities would also apply if it also happened to be a “new discharge.”

Objection: Item (7)(a)(i), page 5 line 23 Ambiguous
The rule is unclear in what constitutes a “reasonable effort” to obtain allocation ... from existing dischargers. It is especially unclear when you attempt to discern the differences between other alternatives such as “any effort” or “all possible efforts.”
It should be noted that at the same time the RRC has objected to this portion of the rule it has objected to all these rules based on ambiguity because of the lack of one set of definitions applying to the entire set of rules. This would be a perfect opportunity for the agency to give some definition by rule of its interpretation of the word “reasonable.”

Objection: Item (8), page 6 line 13 Ambiguous
It is unclear in this portion of the rule for the same reason set out above whether this item is the only item that applies to “expanding discharges.” It would appear that Item (9) pertaining to wastewater facilities would also apply if it also happened to be an “expanding discharge.”

Objection: Item (8), page 6 Ambiguous
The term “reasonable” once again appears in (a)(ii) , line 21, of this item.

Objection: Item (9) page 7 Ambiguous and Lack of Statutory Authority
It is unclear whether this might be an attempt to amend a municipality’s NPDES permit. There is no authority cited for the state agency to do this or to require the local government to do this. It is not clear, and there is no direct authority cited that allows a state agency to order this done, whether done by, through, or for a local government. There is also no authority cited to require the permit holder to make application for a change in its permit.
The same problem applies in Item (6) page 7.

Objection: Item (9)(d), page 7 lines 22 - 28 Ambiguous and Lack of Statutory Authority
It is unclear what standards the director shall use to make the determination to “establish more stringent nitrogen or phosphorus discharge limits” or what those limits shall be. To the extent that any of those limits would be set outside rulemaking, there is no authority to do so.
It is also unclear what are “localized water quality impacts” in line 24

Objection: Item (10)(c) page 8 line 27 Ambiguous and Lack of Statutory Authority
It is unclear what standards the Director shall use in setting the nutrient limits for the association and its members. If it would be the total that the individual members would have had, that is not specified and is unclear.
The ability for the Director to set whatever other requirements in addition to the nutrient limits “the Director deems appropriate” is not guided by any standards and is thus unclear. To the extent they are set outside rulemaking, there is no authority.

RULE CITATION: 15A NCAC 02B .0271

Objection: Item (1), as set out Ambiguous
The following terms are unclear and either need to be defined or deleted from the rule:
In (1)(a) line 12, “steady” or “steady progress.”
In (3)(b), page 4 line 12, “sustained” in “sustained nutrient loading reductions.”
In (3)(b)(ii), page 5 line 22, “steady” in “steady progress toward meeting the reduction goals as practicable.”
In (4)(d)(i), page 9 line 3 “steady” in “steady progress toward reduction goals.”
Objection: Item (3)(b), page 4 Ambiguous

It is unclear who, the agency or the Division, is to make the determination that the load reduction program meets the necessary criteria. It is also unclear whether meeting those criteria is the standard for approval. It would appear to be that it would be the standards in this rule (or other associated rules) but that is not specified and thus it is uncertain.

Objection: Item (3)(b)(viii), page 6 line 30 Ambiguous and Lack of Statutory Authority

It is unclear what standards the division shall use in approving the monitoring design and load reductions. If they are set outside rulemaking, there is no authority for that.

Objection: Item (4), page 7 line 3 and subsequently Ambiguous

It appears that the terms “program” and “strategy” are used interchangeably. It is unclear whether they actually mean the same thing. If they do the agency should be more consistent in its use of terms. If they have different meanings then that is not clear and the rule is ambiguous..

Objection: Item (4), page 7 line 4 Ambiguous and Lack of Statutory Authority

It is not clear what the approval standards are for approving NCDOT’s stormwater management program. It appears that the “approval” standards are the standards in the rule but that is not clear. There is no authority to set them outside rulemaking. If it is “according to these rules” or specific rules, statutes or some other authority, that should be specified in the rule.

Objection: (5)(c) page 10 line 10 Ambiguous and Lack of Statutory Authority

It is unclear what constitutes the division’s standards for approving the load reduction programs. If they are set to allow the division to set standards outside rulemaking, that is outside the agency’s authority.

TCR: In (7), page 11 line 9, correct the formatting of the deletion of “subject to this rule.”

In (8), page 11 line 26 correct the formatting of the deletion of “methods.”

Objection: (8) page 11 line 30 Lack of Statutory Authority

There are no standards set for the director to approve “changes to the accounting method or reduction assignments.” If these standards are set outside rulemaking, that is beyond the agency’s authority. If the changes result in setting different load reduction assignments or loads, there is no authority to set those outside rulemaking.

CONTESTED CASE DECISIONS

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

*Senior Administrative Law Judge
FRED G. MORRISON JR.*

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray	Randall May
Selina Brooks	A. B. Elkins II
Melissa Owens Lassiter	Joe Webster
Don Overby	Shannon Joseph

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOL BEVERAGE CONTROL COMMISSION</u>				
Partnership T/A C Js Lounge v. ABC Commission	07 ABC 0201	Overby	03/11/08	
Benita, Inc., T/A Pantana Bob's v. ABC Commission	07 ABC 1584	Overby	04/21/08	23:01 NCR 141
Original Grad, Inc/ T/A Graduate Food and Pub	07 ABC 1648	Joseph	02/25/08	
AM Enterprises of Fayetteville, Inc., T/A Izzy's Sports Bar v. ABC Commission	08 ABC 0371	Lassiter	06/13/08	
Bhavesh Corporation, T/A K&B Foodmart v. ABC Commission	08 ABC 0508	Overby	05/19/08	
<u>CRIME VICTIMS COMPENSATION</u>				
Carrie R. McDougal v. Victims Compensation Services Division	07 CPS 1970	Elkins	05/23/08	
Steel Supply and Erection Co., Department of Crime Control and Public Safety, Division of State Highway Patrol and Department of Revenue	08 CPS 0777	Overby	05/29/08	
<u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u>				
Arthur Burch and Margaret and Burch v. Department of Health and Human Services	07 DHR 0242	Brooks	04/30/08	
Judy E. Pettus v. Office of Chief Medical Examiner, Thomas B. Clark, III, Md, Pathologist	07 DHR 0535	Webster	05/05/08	
Shirley Brooks Dial v. Health Care Personnel Registry	07 DHR 0931	Webster	02/27/08	
Midtown Food Mart #2, Kerab Giebrehiwot, Mehreteab Wooldeghebibel and Fesseha Zeru	07 DHR 1044	Webster	04/25/08	
Midtown Food Mart III, Chenet Hailesslassi and Fesseha Zeru v. DHHS	07 DHR 1045	Webster	04/28/08	
Carolyn E. Reed v. DHHS, Division of Social Services Program Integrity AFDC/Work First	07 DHR 1214	Webster	07/21/08	
Mrs. Elizabeth Futrell v. Value Options	07 DHR 1331	Lassiter	06/09/08	
Cornell Jones v. DHHS, Division of Health Services Regulation	07 DHR 1399	Joseph	04/22/08	
Dianetta Foye v. Division of Child Development, DHHS, Services	07 DHR 1440	Joseph	05/07/08	
Ray Dukes, Bright Future Learning Center v. DHHS, Division of Public Health, Child and Adult Care Food Program	07 DHR 1473	Joseph	04/08/08	
Hospice of the Piedmont, Inc., v. DHHS, Division of Health Service Regulation, Licensure and Certification Section and DHHS, Division of Health Service Regulation, CON Section	07 DHR 1617	Elkins	05/21/08	
Janice Addison v. Value Options	07 DHR 1618	Webster	05/16/08	
Rebecca Dehart v. DHHS, Division of Health Service Regulation Health Care Personnel Registry Section	07 DHR 1650	Elkins	05/21/08	
Ellen Brown v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	07 DHR 1651	Elkins	05/21/08	
Joann Lennon v. Value Options Medicaid	07 DHR 1770	Webster	05/16/08	
Angeline Currie v. DHHS	07 DHR 1986	Elkins	06/04/08	

CONTESTED CASE DECISIONS

Tameala Jones v. OAH	07 DHR 1993	Webster	05/16/08
Dianetta Foye v. Division of Child Development, DHHS, Services	07 DHR 2020	Joseph	05/07/08
Family & Youth Services, Inc. Angela Ford, President v. DHHS, Division of Medical Assistance Provider Services	07 DHR 2057	Webster	05/16/08
Yolanda Jones v. DHHS, Adult Licensure Section	07 DHR 2081	Webster	05/16/08
Tianna Troy Legal guardian Mother Traci Lookadoo v. Value Option	07 DHR 2087	Elkins	05/23/08
Gary Carlton, Sr., v. DHHS	07 DHR 2099	Brooks	07/10/08
Alexis Ford/Linda M McLaughlin v. DHHS	07 DHR 2111	Elkins	06/04/08
Roger Houston v. DHHS, Div. of Health Service Regulation	07 DHR 2176	Gray	07/08/08
Dorothy L. Davis v. OAH	07 DHR 2179	May	07/02/08
Kevin McMillian/Linda M McLaughlin v. DHHS	07 DHR 2239	Elkins	06/04/08
Maurisha Bethea/Linda McLaughlin v. DHHS	07 DHR 2240	Elkins	06/04/08
Anna Fields v. Value Options	07 DHR 2326	Joseph	06/02/08
Larry Hopper v. DHHS	07 DHR 2356	May	06/20/08
Shelby Davis v. DHHS	08 DHR 0014	Lassiter	05/09/08
Hellon P. Johnson v. DHHS	08 DHR 0020	May	07/03/08
Lenora King v. DHHS	08 DHR 0034	Joseph	05/01/08
Forest Mewborn v. Health Care Personnel Registry	08 DHR 0043	Elkins	05/23/08
Wilma Jackson v. Value Options	08 DHR 0082	Joseph	06/02/08
Carmelita Wiggins v. Value Options	08 DHR 0198	Webster	05/16/08
Lisa Helms v. DHHS	08 DHR 0255	Overby	06/17/08
Pearlene Johnson Ivery v. DMA, Third Party Recovery (Medicaid)	08 DHR 0286	Brooks	07/07/08
Mamaue Aytech v. DHHS	08 DHR 0325	Elkins	05/23/08
Fannie M. Wilson v. OAH	08 DHR 0393	Webster	06/17/08
Angela D Seabrooks/The Jabez House LLC v. DHHS/Division of Mental Health, Developmental and Substance Abuse Services, The Guilford Center	08 DHR 0403	Joseph	06/09/08
William McCray Pretty v. DHHS, Division of Facility Services	08 DHR 0411	Webster	06/12/08
Earline Ross (Quentin Galloway) v. DHHS (Medicaid)	08 DHR 0549	May	06/09/08
Frances Milligan v. DHHS	08 DHR 0566	May	06/19/08
Betty Williams v. DHHS	08 DHR 0570	Joseph	06/02/08
Susan Nelson v. Medicaid	08 DHR 0573	May	06/09/08
Brent Morris Per Dedrea Moors (Mother) v. Priscilla Valet, DMA	08 DHR 0585	May	06/09/08
Brenda M. Finney v. Medicaid	08 DHR 0586	Joseph	06/09/08
Lakeva Robinson v. DMA/Value Options	08 DHR 0625	May	05/28/08
Tina Miller v. OAH, DHHS	08 DHR 0661	Lassiter	06/10/08
Michelle D. Mills v. DHHS, Division of Health Service Regulation	08 DHR 0712	Joseph	06/09/08
Trena Ellis v. DHHS	08 DHR 0730	Lassiter	07/03/08
Faith Davis v. Pride in North Carolina Value Options	08 DHR 0746	Overby	05/28/08
Evonne Neal v. Medicaid	08 DHR 0748	May	06/20/08
Ray C. Price v. DHHS, Office of the Controller	08 DHR 0767	Brooks	07/07/08
Cheryl I Rice v. DHHS	08 DHR 0793	Overby	07/10/08
Lula Bowden v. OAH	08 DHR 0852	May	06/20/08
Donovan Harris v. Value Options	08 DHR 0894	May	06/19/08
Janice Chavis v. DHHS	08 DHR 0923	Lassiter	05/19/08
Frankie Nicole Carter v. DHHS, Division of Health Service Regulation	08 DHR 0929	Brooks	06/19/08
Evangeline Ingram v. Value Options	08 DHR 0997	Gray	06/10/08
Maureen Jordan parent of Destinne Jordan v. Value Options	08 DHR 1005	Gray	06/19/08
Mario Jackson v. DHHS	08 DHR 1024	Overby	06/19/08
Martha Washington Harper v. DSS	08 DHR 1041	Brooks	06/23/08
Mary K. Tulay v. DHHS	08 DHR 1055	Joseph	07/09/08
Haywood Miller, Bobby Jean Graves Miller v. DHHS, Mental Health Licensure Certification Section	08 DHR 1181	Overby	07/01/08
Jan Williams v. Value Options, DHHS	08 DHR 1231	Overby	07/09/08
Heather Peete v. OAH	08 DHR 1281	Lassiter	07/02/08
Alesia Alwahishi dba Brotherhood Market	08 DHR 1356	Gray	07/22/08

DEPARTMENT OF JUSTICE

Dallas Ray Joyner v. Criminal Justice Education and Training Standards Commission	07 DOJ 0719	Overby	04/15/08
Richard Junior Hopper v. Private Protective Services Board	07 DOJ 1071	Webster	02/21/08
Sheldon Avery McCoy v. Criminal Justice Education and Training Standards Commission	07 DOJ 1162	Mann	04/07/08
David Steven Norris v. Private Protective Services Board	07 DOJ 1256	Elkins	04/16/08
Brian Campbell v. Department of Justice, Company Police Program	07 DOJ 1344	Webster	02/25/08
John Mark Goodin v. Alarm Systems Licensing Board	07 DOJ 1405	Lassiter	04/04/08
James Lee Rodenberg v. Depart. of Justice, Company Police Program	07 DOJ 1434	Webster	02/25/08
Michael L. Scriven v. Private Protective Services Board	07 DOJ 1483	Elkins	03/25/08
Roger Wayne Mungo, Jr., Sheriffs' Education and Training Standards Commission	07 DOJ 1510	Overby	05/19/08
Iris Nina Bumpass v. Criminal Justice Education and Training Standards Commission	07 DOJ 2071	Webster	05/16/08

CONTESTED CASE DECISIONS

Michael Gerald Copeland v. Private Protective Services Board	07 DOJ 2286	Gray	07/17/08
Jonathan R. Elam v. Private Protective Services Board	08 DOJ 0568	Webster	05/08/08
Wilford Odell Hamlin v. Private Protective Services Board	08 DOJ 0713	Joseph	05/01/08
Dustin Elvin Campbell v. Criminal Justice Education and Training Standards Commission	08 DOJ 1078	Lassiter	07/14/08
Cynthia Kay Saintsing v. Criminal Justice Education and Training Standards Commission	08 DOJ 1079	Lassiter	07/14/08
Timothy C. Darrh v. DHHS/Value Options	07 DOJ 1239	Overby	07/07/08

DEPARTMENT OF LABOR

Sandra Leroux, Leroux Entertainment Corporation d/b/a Spectacular Events! V. DOL	08 DOL 0754	May	07/08/08
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DEPARTMENT OF TRANSPORTATION

Kevin Douglas v. Dept. of Justice Criminal Justice Standards, DMV License and Theft, Holly Springs Police Department	07 DOT 2221	Webster	05/12/08
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DEPARTMENT OF STATE TREASURER

Patricia V. Leonard v. State Treasurer/Retirement Systems Division	07 DST 1928	Lassiter	03/12/08
Jerry Alan Reese v. DST, State and Local Finance Division and the Local Government Commission	08 DST 0256	Morrison	07/25/08

EDUCATION, STATE BOARD OF

Bradford Dale Gulley v. Depart. of Education Attorney Generals Office	07 EDC 1486	Webster	05/16/08
Lucretia Burrus v. State Board of Education	07 EDC 2210	Webster	05/16/08
Gregory Bates v. DPI, Licensure Section	07 EDC 2238	Gray	04/30/08
Heather S. Brame v. State Board of Education	07 EDC 2287	Joseph	05/07/08

Hubert Thomas Byrum v. Office of State Superintendent	08 EDC 0619	Gray	06/04/08
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DEPT. OF ENVIRONMENT AND NATURAL RESOURCES

Robin R. Moore v. DENR, Division of Waste Management	06 EHR 1479	Lassiter	03/24/08
NC Coastal Federation v. DENR, Division of Coastal Management and Wind over Waves, LLC	07 EHR 0345	Lassiter	04/07/08
Terry Hill DAQ 2007-015 v. DENR, Division of Air Quality	07 EHR 0937	Morrison	04/08/08
Frank Home Construction, Inc. v. Division of Water Quality	07 EHR 1061	Webster	05/12/08
Kenneth & Mary Anne Sutton v. DENR, Division of Coastal Management	07 EHR 1316	Overby	05/09/08
Frank Myers Investments, LLC v. DENR	07 EHR 2377	May	05/28/08
W Russell Overman Martin County Water & Sewer District v. DENR Public Water Supply Section	08 EHR 0345	Gray	06/10/08
Ray Poole's Park, Jean Poole v. DENR, Public Water Supply Section	08 EHR 0563	Joseph	05/16/08
Donald Lindsay v. Cherokee County Health Dept.	08 EHR 0764	Brooks	07/10/08
Joel M. Walker v. Division of Water Quality Well Contractors Certification Commission	08 EHR 0985	Joseph	06/11/08
Research Triangle Institute v. Division of Waste Management, Hazardous Waste Section, DENR	08 EHR 1100	Overby	07/11/08
Tracie Locklear, Ammie Brewer-James, Native Designs Hair & Tanning Salon v. DENR, Health Radiation Protection	08 EHR 1143	Gray	7/17/08

DEPARTMENT OF INSURANCE

Sandra Vanderbeek v. Teachers' and State Employees' Comprehensive Major Medical Plan	07 INS 1130	Overby	03/12/08
Alesha D Carter v. State Health Plan	07 INS 1858	Lassiter	05/19/08

MISCELLANEOUS

Kevin Edral Douglas v. Wake County District Attorney, DMV	07 MIS 1976	Webster	05/12/08
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OFFICE OF STATE PERSONNEL

Marsha A Early v. Durham County Department of Social Services	01 OSP 0279	Lassiter	04/02/08
Jacqueline B. Maynard v. UNC	07 OSP 0575	Webster	04/08/08
Warren R. Follum v. NCSU	07 OSP 0577	Webster	03/21/08
Sharon P. House v. UNC	07 OSP 0630	Webster	04/08/08
Michael Shelton Woody v. DENR, Division of Forest Resources	07 OSP 1255	Brooks	05/13/08
Kellee M. Buck v. Dare County Department of Social Services	07 OSP 1385	Overby	05/27/08
Dennis E. Hrynkow v. Dept. of Insurance	07 OSP 1400	Joseph	04/03/08
Adley K. Prager v. Dept. of Crime Control and Public Safety and	07 OSP 2011	Webster	05/29/08

CONTESTED CASE DECISIONS

Butner Public Safety				
Charlene J. Shaw v. Peter Bucholz, Hoke Correctional Institution	07 OSP 2012	Joseph	04/07/08	
Jacqueline Burkes v. DOC, Hoke 4320, Mr. Peter Bucholz	07 OSP 2047	Joseph	04/07/08	
Charles Jones v. Bryan Beatty, Secretary of Crime Control & Public Safety and The Dept. of Crime Control & Public Safety (NC Highway Patrol)	07 OSP 2222	Morrison	06/05/08	23:01 NCR 147
Kimberly James v. UNC-Charlotte	08 OSP 0146	Webster	05/08/08	
Nancy Hester v. Guilford County AOC Pretrial Services	08 OSP 0224	Overby	06/19/08	
Laura L. Holliman v. Caledonia Correctional Inst.	08 OSP 0591	Gray	07/08/08	
Ashley K. Severson v. Greene County	08 OSP 0611	Joseph	07/29/08	
Richard D. Lincoln v. DOT	08 OSP 0801	Gray	05/27/08	
Robert M. Hewitt v. Morrison Correctional Institute	08 OSP 0971	Gray	06/26/08	
Kenyatta Burrus v. Craven County Clerk of Superior Court	08 OSP 1089	Overby	06/12/08	
Dexter J. Hill v. Department of Agriculture and Consumer Services	08 OSP 1167	Overby	07/08/08	
Dianna Humphrey v. Caswell Center	08 OSP 1327	Lassiter	07/02/08	

RESPIRATORY CARE BOARD

Angelique Thompson v. Respiratory Care Board	07 RCB 1176	Gray	03/13/08	23:01 NCR 153
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DEPARTMENT OF REVENUE

Parker Bark Company Inc. v. Department of Revenue	08 REV 1228	Overby	06/17/08	
Deandra A. Scott v. Department of Revenue	08 REV 1180	Overby	07/01/08	
Goretty Williams v. Department of Revenue	08 REV 1227	Overby	07/08/08	
Anthony Chad Bynum v. Department of Revenue	08 REV 1268	Overby	07/09/08	

OFFICE OF SECRETARY OF STATE

Wendy Branch Miller v. SOS	08 SOS 1018	Lassiter	07/14/08	
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UNC HOSPITALS

Charity Smith v. UNC Hospitals	08 UNC 0533	Gray	07/28/08	
Jimmy L. Holder v. UNC Hospitals	08 UNC 0589	May	07/29/08	
Barbara C. King v. UNC Hospitals	08 UNC 0805	May	07/29/08	
Kaprina Wells v. UNC Hospitals	08 UNC 0860	Gray	07/28/08	
Rolie Adrienne Webb "Andi" v. UNC Hospitals	08 UNC 0881	Gray	06/11/08	
Marcus M. McCullers v. UNC Hospitals	08 UNC 0928	Gray	07/30/08	

WILDLIFE RESOURCES COMMISSION

Lisa Roddy v. Wildlife Resources Commission	08 WRC 0970	Brooks	06/24/08	
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