

NORTH CAROLINA REGISTER

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I. IN ADDITION

Building Code Council – Notice of Rulemaking Proceedings and Public Hearing.....	1656 – 1675
Elections, Board of - Elections Systems Certification Program.....	1676 – 1720

II. PROPOSED RULES

Insurance, Department of Department	1721 – 1722
Occupational Licensing Boards and Commissions Cemetery Commission	1722 – 1723
Veterinary Medical Board	1723 – 1726

III. RULES REVIEW COMMISSION

1727 – 1746

IV. CONTESTED CASE DECISIONS

Index to ALJ Decisions.....	1747 – 1751
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NORTH CAROLINA REGISTER
Publication Schedule for January 2017 – December 2017

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
31:13	01/03/17	12/07/16	01/18/17	03/06/17	03/20/17	05/01/17	05/2018	09/30/17
31:14	01/17/17	12/20/16	02/01/17	03/20/17	04/20/17	06/01/17	05/2018	10/14/17
31:15	02/01/17	01/10/17	02/16/17	04/03/17	04/20/17	06/01/17	05/2018	10/29/17
31:16	02/15/17	01/25/17	03/02/17	04/17/17	04/20/17	06/01/17	05/2018	11/12/17
31:17	03/01/17	02/08/17	03/16/17	05/01/17	05/22/17	07/01/17	05/2018	11/26/17
31:18	03/15/17	02/22/17	03/30/17	05/15/17	05/22/17	07/01/17	05/2018	12/10/17
31:19	04/03/17	03/13/17	04/18/17	06/02/17	06/20/17	08/01/17	05/2018	12/29/17
31:20	04/17/17	03/24/17	05/02/17	06/16/17	06/20/17	08/01/17	05/2018	01/12/18
31:21	05/01/17	04/07/17	05/16/17	06/30/17	07/20/17	09/01/17	05/2018	01/26/18
31:22	05/15/17	04/24/17	05/30/17	07/14/17	07/20/17	09/01/17	05/2018	02/09/18
31:23	06/01/17	05/10/17	06/16/17	07/31/17	08/21/17	10/01/17	05/2018	02/26/18
31:24	06/15/17	05/24/17	06/30/17	08/14/17	08/21/17	10/01/17	05/2018	03/12/18
32:01	07/03/17	06/12/17	07/18/17	09/01/17	09/20/17	11/01/17	05/2018	03/30/18
32:02	07/17/17	06/23/17	08/01/17	09/15/17	09/20/17	11/01/17	05/2018	04/13/18
32:03	08/01/17	07/11/17	08/16/17	10/02/17	10/20/17	12/01/17	05/2018	04/28/18
32:04	08/15/17	07/25/17	08/30/17	10/16/17	10/20/17	12/01/17	05/2018	05/12/18
32:05	09/01/17	08/11/17	09/16/17	10/31/17	11/20/17	01/01/18	05/2018	05/29/18
32:06	09/15/17	08/24/17	09/30/17	11/14/17	11/20/17	01/01/18	05/2018	06/12/18
32:07	10/02/17	09/11/17	10/17/17	12/01/17	12/20/17	02/01/18	05/2018	06/29/18
32:08	10/16/17	09/25/17	10/31/17	12/15/17	12/20/17	02/01/18	05/2018	07/13/18
32:09	11/01/17	10/11/17	11/16/17	01/02/18	01/22/18	03/01/18	05/2018	07/29/18
32:10	11/15/17	10/24/17	11/30/17	01/16/18	01/22/18	03/01/18	05/2018	08/12/18
32:11	12/01/17	11/07/17	12/16/17	01/30/18	02/20/18	04/01/18	05/2018	08/28/18
32:12	12/15/17	11/22/17	12/30/17	02/13/18	02/20/18	04/01/18	05/2018	09/11/18

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

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

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

1 NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING

2
3 NORTH CAROLINA BUILDING CODE COUNCIL

4
5 **Notice of Rule-making Proceedings** is hereby given by NC Building Code Council in accordance with
6 *G.S. 150B-21.5(d).*

7
8 **Citation to Existing Rule Affected by this Rule-Making:** *North Carolina Building, Energy*
9 *Conservation, Electrical, Existing Building, Fire Prevention, Fuel Gas, Mechanical, Plumbing, and*
10 *Residential Code amendments and adoption of the 2018 NC State Building Codes.*

11
12 **Authority for Rule-making:** *G.S. 143-136; 143-138.*

13
14 **Reason for Proposed Action:** *To incorporate changes in the NC State Building Codes as a result of*
15 *rulemaking petitions filed with the NC Building Code Council and to incorporate changes proposed by the*
16 *Council.*

17
18 **Public Hearing:** *Tuesday, March 14, 2017, 9:00AM, NCSU McKimmon Center, 1101 Gorman Street,*
19 *Raleigh, NC 27606. Comments on both the proposed rule and any fiscal impact will be accepted.*

20
21 **Comment Procedures:** *Written comments may be sent to Barry Gupton, Secretary, NC Building Code*
22 *Council, NC Department of Insurance, 1202 Mail Service Center, Raleigh, NC 27699-1202. Comments on*
23 *both the proposed rule and any fiscal impact will be accepted. Comment period expires on April 17, 2017.*

24
25 **Statement of Subject Matter:**

26
27
28 **I. Request by the NC Building Code Council, Ad-Hoc Committees, to adopt the 2018 North Carolina**
29 **State Building Codes. The Base Documents for the 2018 NC Codes are the 2015 International Codes.**

30
31 The 2018 NC Committee amendments are posted at the link below and are replacements to the
32 Sections printed in the Base Documents.

33 [http://www.ncdoi.com/OSFM/Engineering and Codes/Default.aspx?field1=Codes -](http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes_-_Current_and_Past&user=State_Building_Codes)
34 [Current and Past&user=State Building Codes](http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes_-_Current_and_Past&user=State_Building_Codes)

35
36 The 2018 NC Ad-Hoc Committee reports are posted at the link below.

1 http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=BCC -
2 [Ad Hoc Committee Meeting Information&user=Building Code Council&sub=BCC Committees](#)

3
4 The 2015 International Codes are available at www.iccsafe.org for purchase or at
5 <http://codes.iccsafe.org/I-Codes.html#2015> for public access.

- 6
7 1.1 North Carolina State Building Code – [2018 Building Code](#)
8 1.2 North Carolina State Building Code – [2018 Energy Conservation Code, including Residential](#)
9 [Energy](#)
10 1.3 North Carolina State Building Code – [2018 Existing Building Code](#)
11 1.4 North Carolina State Building Code – [2018 Fire Prevention Code](#)
12 1.5 North Carolina State Building Code – [2018 Fuel Gas Code](#)
13 1.6 North Carolina State Building Code – [2018 Mechanical Code](#)
14 1.7 North Carolina State Building Code – [2018 Plumbing Code](#)
15 1.8 North Carolina State Building Code – [2018 Residential Code](#)

16
17 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
18 1, 2019.

19 Reason Given – This purpose of this adoption is to update the NC State Building Code to the 2015
20 International Code edition.

21 Fiscal Statement –

22 **2018 Energy Conservation Code, including Residential Energy.** This rule is anticipated to have a
23 substantial economic impact and increase local and state funds. A fiscal note has been approved.
24 **2018 All Other.** This rule is anticipated to provide equivalent compliance with no net decrease/increase in
25 cost. This rule is not expected to either have a substantial economic impact or increase local and state
26 funds. A fiscal note has not been prepared.

27
28
29 **2. Additional individual requests to further amend the 2018 North Carolina Energy Conservation**
30 **Code, Item 1.2 above:**

31
32 **2.1 Request from Ryan Miller, representing North Carolina Building Performance Association, to**
33 **revise the 2018 NC Energy Conservation Code, Section 403.3.3 Duct Leakage (Perspective and duct**
34 **testing (Mandatory)).**

35
36 403.3.3 Duct leakage (Perspective) and duct testing (Mandatory). Duct testing and duct leakage shall be
37 verified by compliance with either Section 403.3.3.1 or 403.3.3.2. Duct testing shall be performed and

1 reported by the permit holder, a NC licensed general contractor, a NC licensed HVAC contractor, a NC
 2 licensed Home Inspector, a registered design professional, a certified BPI Envelope Professional or a
 3 certified HERS rater. A single point depressurization, not temperature corrected, test is sufficient to comply
 4 with this provision, provided that the duct testing fan assembly(s) has been certified by the manufacturer to
 5 be capable of conducting tests in accordance with ASTM E1554-07.

6
 7 The duct leakage information, including duct leakage test selected and result, tester name, date and contact
 8 information, shall be included on the certificate described in Section 401.3.

9
 10 For the Test Criteria, the report shall be produced in the following manner: perform the HVAC system air
 11 leakage test and record the CFM25. Calculate the total square feet of Conditioned Floor Area (CFA) served
 12 by that system. Multiply CFM25 by 100, divide the result by the CFA and record the result. If the result is
 13 less than or equal to 5 CFM25/100SF for the "Total duct leakage test or less than or equal to 4
 14 CFM25/100SF for the "Duct leakage to the outside" test, then the HVAC system air tightness is acceptable.
 15 Appendix 3C contains optional sample worksheets for duct testing for the permit holder's use only.

16
 17 **Exceptions to testing requirements:**

- 18 1. Duct systems or portions thereof inside the building thermal envelope shall not be required to be leak
 19 tested.
 20 2. Installation of a partial system as part of replacement, renovation or addition does not require a duct
 21 leakage test.
 22 3. Duct systems (complete) serving areas of 750 sq. ft. or less shall not need to be required to be leak tested.

23
 24 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
 25 1, 2019.

26 Reason Given – This purpose of this amendment is to ignore duct leakage in small areas due to the
 27 disproportionate relationship between the HVAC/Duct system size and the amount of conditioned floor
 28 area.

29 Fiscal Statement – This rule is anticipated to provide equivalent compliance with no net decrease/increase
 30 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
 31 funds. A fiscal note has not been prepared.

32
 33 **2.2 Request from Bridget Herring, representing Mathis Consulting Company, to revise the 2018 NC**
 34 **Energy Conservation Code, Section C402.**

35
 36 **Modify existing section, as follows:**

C402.2.2 Roof assembly. The minimum thermal resistance (R-value) of the insulating material installed either between the roof framing or continuously on the roof assembly shall be as specified in Table C402.1.3, based on construction materials used in the roof assembly. Skylight curbs shall be insulated to the level of roofs with insulation entirely above deck or R-5, whichever is less.

Exceptions Exception:

1. Continuously-insulated roof assemblies where the thickness of insulation varies 1 inch (25 mm) or less and where the area-weighted U-factor is equivalent to the same assembly with the R-value specified in Table C402.1.3.

2. Where tapered insulation is used with insulation entirely above deck, the R-value where the insulation thickness varies 1 inch (25 mm) or less from the minimum thickness of tapered insulation shall comply with the R-value specified in Table C402.1.3.

3. Unit skylight curbs included as a component of a skylight listed and labeled in accordance with NFRC 100 shall not be required to be insulated.

Add new section, as follows:

C402.2.2.1 Determination of R-value for above deck tapered insulation. Where continuous above deck tapered roof insulation is used, the R-value specified in Table C402.1.3 shall be determined based on an area-weighted average.

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is January 1, 2019.

Reason Given – This purpose of this amendment is to allow a weighted average rather than an arbitrary minimum thickness.

Fiscal Statement – This rule is anticipated to provide equivalent compliance with a minimal decrease in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

2.3 Request from Chuck Perry, representing Appalachian State University, to revise the 2018 NC Energy Conservation Code, Section R406 Energy Rating Index Compliance Alternative.

SECTION R406

ENERGY RATING INDEX COMPLIANCE ALTERNATIVE

R406.1 Scope. This section establishes criteria for compliance using an Energy Rating Index (ERI) analysis.

R406.2 Mandatory requirements.

Compliance with this section requires that the mandatory provisions identified in Sections ~~R401.2~~ R401 through R404 labeled as "mandatory" and ~~Section R403.5.3~~ be met. The building thermal envelope shall be greater than or equal to levels of efficiency and Solar Heat Gain Coefficient in Table 402.1.1 or 402.1.3 of the ~~2009 International Energy Conservation Code~~ 2012 NC Energy Conservation Code. Minimum standards associated with compliance shall be the ANSI RESNET ICC Standard 301-2014 "Standard for the Calculation and Labeling of the Energy Performance of Low-Rise Residential Buildings using an Energy Rating Index." A North Carolina licensed design professional ~~or RESNET Certified Home Energy Rater~~ is required to perform the analysis if required by North Carolina licensure laws.

Exception: ~~Supply and return ducts not completely inside the building thermal envelope shall be insulated to a minimum of R-6. Supply and return ducts in unconditioned space and outdoors shall be insulated to a minimum R-8. Supply ducts inside semi-conditioned space shall be insulated to a minimum R-4; return ducts inside conditioned and semi-conditioned space are not required to be insulated. Ducts located inside conditioned space are not required to be insulated other than as may be necessary for preventing the formation of condensation on the exterior of cooling ducts.~~

R406.3 Energy Rating Index.

The Energy Rating Index (ERI) shall be a numerical integer value that is based on a linear scale constructed such that the *ERI reference design* has an Index value of 100 and a *residential building* that uses no net purchased energy has an Index value of 0. Each integer value on the scale shall represent a 1-percent change in the total energy use of the rated design relative to the total energy use of the *ERI reference design*. The ERI shall consider all energy used in the *residential building*.

R406.3.1 ERI reference design.

The *ERI reference design* shall be configured such that it meets the minimum requirements of the 2006 *International Energy Conservation Code* prescriptive requirements.

The proposed *residential building* shall be shown to have an annual total normalized modified load less than or equal to the annual total loads of the *ERI reference design*.

R406.4 ERI-based compliance.

Compliance based on an ERI analysis requires that the *rated design* be shown to have an ERI less than or equal to the appropriate value listed in Table R406.4.1 or Table R406.4.2 when compared to the *ERI reference design*.

TABLE R406.4

MAXIMUM ENERGY-RATING INDEX

CLIMATE ZONE	ENERGY-RATING INDEX
1	52
2	52
3	54
4	54

5	55
6	54
7	53
8	53

TABLE R406.4.1 MAXIMUM ENERGY RATING INDEX without calculation of on-site renewable energy

Climate Zone	Jan 1, 2019 – Dec 31, 2022	Jan 1, 2023 and forward
3	65	61
4	67	63
5	67	63

TABLE R406.4.2 MAXIMUM ENERGY RATING INDEX including calculation of on-site renewable energy

Climate Zone	Jan 1, 2019 – Dec 31, 2022	Jan 1, 2023 and forward
3	51	47
4	54	50
5	55	51

R406.5 Verification by approved agency.

Verification of compliance with Section R406 shall be performed by the licensed design professional *or* **RESNET Certified Home Energy Rater** and the compliance documentation shall be provided to the code official. The code official shall inspect according to the requirements of Section R406.6.2 completed by an approved third party.

R406.6 Documentation.

Documentation of the software used to determine the ERI and the parameters for the residential building shall be in accordance with Sections R406.6.1 through R406.6.3.

R406.6.1 Compliance software tools.

Documentation verifying that the methods and accuracy of the compliance software tools conform to the provisions of this section shall be provided to the code official. Compliance software tools for this section shall be in compliance with ANSI RESNET ICC Standard 301-2014.

R406.6.2 Compliance report. Compliance software tools shall generate a report that documents that the ERI of the rated design complies with Sections R406.3 and R406.4. The compliance documentation shall include the following information:

1. Address or other identification of the residential building.

2. An inspection checklist documenting the building component characteristics of the *rated design*. The inspection checklist shall show results for both the *ERI reference design* and the *rated design*, and shall document all inputs entered by the user necessary to reproduce the results.

3. Name of individual completing the compliance report.

4. Name and version of the compliance software tool.

~~Exception: Deleted. Multiple orientations. Where an otherwise identical building model is offered in multiple orientations, compliance for any orientation shall be permitted by documenting that the building meets the performance requirements in each of the four (north, east, south and west) cardinal orientations.~~

R406.6.3 Additional documentation.

~~Deleted. The code official shall be permitted to require the following documents:~~

~~1. Documentation of the building component characteristics of the *ERI reference design*.~~

~~2. A certification signed by the builder providing the building component characteristics of the *rated design*.~~

~~3. Documentation of the actual values used in the software calculations for the *rated design*.~~

R406.7 Calculation software tools. Calculation software, where used, shall be in accordance with Sections R406.7.1 through R406.7.3.

R406.7.1 Minimum capabilities.

Calculation procedures used to comply with this section shall be software tools capable of calculating the ERI as described in Section R406.3, ~~and shall be in compliance with ANSI RESNET ICC Standard 301-~~

~~2014 and shall include the following capabilities.~~ The software shall include the following capabilities:

1. Computer generation of the *ERI reference design* using only the input for the *rated design*.

The calculation procedure shall not allow the user to directly modify the building component characteristics of the *ERI reference design*.

2. Calculation of whole building, as a single *zone*, sizing for the heating and cooling equipment in the *ERI reference design* residence in accordance with Section R403.7.

3. Calculations that account for the effects of indoor and outdoor temperatures and part-load ratios on the performance of heating, ventilating and air-conditioning equipment based on climate and equipment sizing.

4. Printed *code official* inspection checklist listing each of the *rated design* component characteristics determined by the analysis to provide compliance, along with their respective performance ratings.

R406.7.2 Specific approval.

~~Deleted. Performance analysis tools meeting the applicable sections of Section R406 shall be approved. Tools are permitted to be approved based on meeting a specified threshold for a jurisdiction. The code official shall approve tools for a specified application or limited scope.~~

R406.7.3 Input values.

~~Deleted. When calculations require input values not specified by Sections R402, R403, R404 and R405, those input values shall be taken from an approved source.~~

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is January 1, 2019.

Reason Given – This purpose of this amendment is to allow RESNET Certified Home Energy Raters to perform the required Energy Rating Index analysis.

Fiscal Statement – This rule is anticipated to provide equivalent compliance with a minimal decrease in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

2.4 Request from Chuck Perry, representing Appalachian State University, to revise the 2018 NC Residential Code, Section N1106 Energy Rating Index Compliance Alternative.

SECTION N1106

ENERGY RATING INDEX COMPLIANCE ALTERNATIVE

N1106.1 Scope. This section establishes criteria for compliance using an Energy Rating Index (ERI) analysis.

N1106.2 Mandatory requirements.

Compliance with this section requires that the ~~mandatory~~ provisions identified in Sections ~~N1101 through N1104~~ labeled as “mandatory” and ~~Section N1103.5.3~~ be met. The building thermal envelope shall be greater than or equal to levels of efficiency and Solar Heat Gain Coefficient in Table 1102.1.1 or 1102.1.3 of the ~~2009 International Energy Conservation Code~~ 2012 NC Energy Conservation Code. Minimum standards associated with compliance shall be the ANSI RESNET ICC Standard 301-2014 “Standard for the Calculation and Labeling of the Energy Performance of Low-Rise Residential Buildings using an Energy Rating Index.” A North Carolina licensed design professional ~~or RESNET Certified Home Energy Rater~~ is required to perform the analysis if required by North Carolina licensure laws.

Exception: ~~Supply and return ducts not completely inside the building thermal envelope shall be insulated to a minimum of R-6. Supply and return ducts in unconditioned space and outdoors shall be insulated to a minimum R-8. Supply ducts inside semi-conditioned space shall be insulated to a minimum R-4; return ducts inside conditioned and semi-conditioned space are not required to be insulated. Ducts located inside conditioned space are not required to be insulated other than as may be necessary for preventing the formation of condensation on the exterior of cooling ducts.~~

N1106.3 Energy Rating Index.

The Energy Rating Index (ERI) shall be a numerical integer value that is based on a linear scale constructed such that the *ERI reference design* has an Index value of 100 and a *residential building* that uses no net purchased energy has an Index value of 0. Each integer value on the scale shall represent a 1-percent change in the total energy use of the rated design relative to the total energy use of the *ERI reference design*. The ERI shall consider all energy used in the *residential building*.

N1106.3.1 ERI reference design.

The *ERI reference design* shall be configured such that it meets the minimum requirements of the 2006 *International Energy Conservation Code* prescriptive requirements.

The proposed *residential building* shall be shown to have an annual total normalized modified load less than or equal to the annual total loads of the *ERI reference design*.

N1106.4 ERI-based compliance.

Compliance based on an ERI analysis requires that the *rated design* be shown to have an ERI less than or equal to the appropriate value listed in Table N1106.4.1 or Table N1106.4.2 when compared to the *ERI reference design*.

TABLE N1106.4**MAXIMUM ENERGY RATING INDEX**

CLIMATE ZONE	ENERGY RATING INDEX
1	52
2	52
3	51
4	54
5	55
6	54
7	53
8	53

TABLE N1106.4.1 MAXIMUM ENERGY RATING INDEX without calculation of on-site renewable energy

Climate Zone	Jan 1, 2019 – Dec 31, 2022	Jan 1, 2023 and forward
3	65	61
4	67	63
5	67	63

TABLE N1106.4.2 MAXIMUM ENERGY RATING INDEX including calculation of on-site renewable energy

Climate Zone	Jan 1, 2019 – Dec 31, 2022	Jan 1, 2023 and forward
3	51	47
4	54	50
5	55	51

N1106.5 Verification by approved agency.

Verification of compliance with Section N1106 shall be ~~performed by the licensed design professional or RESNET Certified Home Energy Rater and the compliance documentation shall be provided to the code official.~~ The code official shall inspect according to the requirements of Section N1106.6.2 ~~completed by an approved third party.~~

N1106.6 Documentation.

Documentation of the software used to determine the ERI and the parameters for the residential building shall be in accordance with Sections N1106.6.1 through N1106.6.3.

N1106.6.1 Compliance software tools.

~~Documentation verifying that the methods and accuracy of the compliance software tools conform to the provisions of this section shall be provided to the code official.~~ Compliance software tools for this section shall be in compliance with ANSI RESNET ICC Standard 301-2014.

N1106.6.2 Compliance report. Compliance software tools shall generate a report that documents that the ERI of the *rated design* complies with Sections N1106.3 and N1106.4. The compliance documentation shall include the following information:

1. Address or other identification of the residential building.
2. An inspection checklist documenting the building component characteristics of the *rated design*. The inspection checklist shall show results for both the *ERI reference design* and the *rated design*, and shall document all inputs entered by the user necessary to reproduce the results.
3. Name of individual completing the compliance report.
4. Name and version of the compliance software tool.

Exception: ~~Deleted.~~ Multiple orientations. Where an otherwise identical building model is offered in multiple orientations, compliance for any orientation shall be permitted by documenting that the building meets the performance requirements in each of the four (north, east, south and west) cardinal orientations.

N1106.6.3 Additional documentation.

~~Deleted.~~ The code official shall be permitted to require the following documents:

1. Documentation of the building component characteristics of the *ERI reference design*.
2. A certification signed by the builder providing the building component characteristics of the *rated design*.
3. Documentation of the actual values used in the software calculations for the *rated design*.

N1106.7 Calculation software tools. Calculation software, where used, shall be in accordance with Sections N1106.7.1 through N1106.7.3.

N1106.7.1 Minimum capabilities.

Calculation procedures used to comply with this section shall be software tools capable of calculating the ERI as described in Section N1106.3, and shall be in compliance with ANSI RESNET ICC Standard 301-2014 and shall include the following capabilities. The software shall include the following capabilities:

1. Computer generation of the *ERI reference design* using only the input for the *rated design*.

1 The calculation procedure shall not allow the user to directly modify the building component characteristics
2 of the *ERI reference design*.

3 2. Calculation of whole building, as a single *zone*, sizing for the heating and cooling equipment in the *ERI*
4 *reference design* residence in accordance with Section N1103.7.

5 3. Calculations that account for the effects of indoor and outdoor temperatures and part-load ratios on the
6 performance of heating, ventilating and air-conditioning equipment based on climate and equipment sizing.

7 4. Printed *code official* inspection checklist listing each of the *rated design* component characteristics
8 determined by the analysis to provide compliance, along with their respective performance ratings.

9 **N1106.7.2 Specific approval.**

10 ~~Deleted. Performance analysis tools meeting the applicable sections of Section N1106 shall be approved.~~
11 ~~Tools are permitted to be approved based on meeting a specified threshold for a jurisdiction. The code~~
12 ~~official shall approve tools for a specified application or limited scope.~~

13 **N1106.7.3 Input values.**

14 ~~Deleted. When calculations require input values not specified by Sections N1102, N1103, N1104 and~~
15 ~~N1105, those input values shall be taken from an approved source.~~

16
17 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
18 1, 2019.

19 Reason Given – This purpose of this amendment is to allow RESNET Certified Home Energy Raters to
20 perform the required Energy Rating Index analysis.

21 Fiscal Statement – This rule is anticipated to provide equivalent compliance with a minimal decrease in
22 cost. This rule is not expected to either have a substantial economic impact or increase local and state
23 funds. A fiscal note has not been prepared.

24
25
26 **3. Request from Dave Crawford, representing AIA-North Carolina, to revise the 2018 NC Building**
27 **Code, Section 2902.1.2, and the 2018 NC Plumbing Code, Section 403.1 and Section 403.2 Separate**
28 **Facilities**

29
30 **2018 NC Building Code**

31 **2902.1.2 Family or assisted-use toilet and bath fixtures.** Fixtures located within family or assisted-use
32 toilet and bathing rooms required by Section 1109.2.1 are permitted to be included in the number of
33 required fixtures for either the male or female occupants in ~~assembly and mercantile occupancies~~ all
34 occupancies noted in Table 2902.1.

35
36 **2018 NC Plumbing Code**

37 **Section 403.1: add the following new section**

1 **403.1.1 Single-occupancy toilet facility and bathing room fixtures.**

2 The plumbing fixtures located in single- occupancy toilet facilities and bathing rooms, including family or
3 assisted-use toilet and bathing rooms that are required by Section 1109.2.1 of the North Carolina Building
4 Code, and including all occupancies noted in Table 403.1, shall contribute towards the total number of
5 required plumbing fixtures for a building or tenant space.

6
7 **Section 403.2 Separate facilities: add the following**

8 Exceptions:

9 5. Except as provided in Section 403.2.1.

10
11 403.2.1. Single- occupancy toilet facilities and bathing rooms, and family or assisted- use toilet and bathing
12 rooms shall not be required to be identified by gender.

13
14 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
15 1, 2019.

16 Reason Given – This purpose of this amendment is to provide greater design flexibility and usability by
17 allowing more single occupant bathrooms and toilet rooms.

18 Fiscal Statement – This rule is anticipated to provide equivalent compliance with no net decrease/increase
19 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
20 funds. A fiscal note has not been prepared.

21
22
23 **4. Request from Terry Cromer, representing NC Association of Electrical Contractors, to amend the**
24 **2014 NC Electrical Code, Section 680.21(D) Pool Pump Motor Replacement as follows:**

25
26 **680.21(D) Pool Pump Motor Replacement.** Whenever a pool pump motor requires replacing and the
27 existing branch circuit or receptacle, providing power to the pump motor, does not provide ground-fault
28 circuit-interrupter protection for personnel the branch circuit or receptacle shall be updated to provide
29 ground-fault circuit-interrupter protection for personnel.

30
31 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is
32 September 1, 2017 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1,
33 2018).

34 Reason Given – This purpose of this amendment is to provide the same protection for a replacement pump
35 motor as for new construction.

Fiscal Statement – This rule is anticipated to provide equivalent compliance with no net decrease/increase in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

5. Request from Daniel Priest, representing Priest Architecture, PLLC, to amend Section 901.1 of the 2012 and 2018 NC Fire Prevention Code, as follows:

901.1 Scope. ~~The provisions of this chapter shall specify where fire protection systems are required and shall apply to the design, installation, inspection, operation, testing and maintenance of all fire protection systems.~~

The provisions of the International Building Code shall specify where fire protection systems are required and shall apply to the design, installation, inspection, operation, testing of all fire protection systems. Fire protection systems shall be repaired, operated and maintained in accordance to the International Fire Code.

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is September 1, 2017 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2018).

Reason Given – This purpose of this proposal is to clarify the responsibility for permitting and inspecting of fire protection systems in new construction versus operation, repair and maintenance of fire protection systems in existing structures.

Fiscal Statement – This rule is anticipated to provide equivalent compliance with no net decrease/increase in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

6. Request from Robbie Davis, representing the NC Building Code Council Building/Fire Ad-Hoc Committees, to amend the 2018 NC Building Code, Sections 101.2 Scope and 202 Definitions, as follows:

101.2 Scope. The provisions of this code shall apply to the construction, ~~alteration~~, relocation, enlargement, replacement, ~~repair~~, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exceptions: If any of the following apply the building or structure is exempt from the provisions of this code:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress, and their accessory structures not more than three stories above grade plane in height, shall comply with the *International Residential Code*.
 2. Farm buildings located outside of the building rules jurisdiction of any municipality.
 - Exception: All buildings used for sleeping purposes shall conform to the provisions of the technical codes.
 2. Farm buildings not used for:
 - a. Sleeping purposes, or
 - b. Storage of hazardous materials in excess of those listed in Tables 307.1(1) and 307.1(2) within the building rules jurisdiction of any municipality.
 3. The design construction, location, installation or operation of equipment for storing, handling and transporting liquefied petroleum gases for fuel purposes up to the outlet of the first stage pressure regulator, anhydrous ammonia or other liquid fertilizer.
 4. The design construction, location, installation or operation of equipment or facilities of a public utility, as defined in NC G.S. 62-3, or electric or telephone membership corporation, including without limitation poles, towers and other structures supporting electric or communication lines from the distribution network up to the meter location.
- Note: All buildings owned and operated by a public utility or an electric or telephone membership corporation shall meet the provisions of this code.
5. The storage and handling of hazardous chemicals as they relate to NC G.S. 95, Article 18 - Hazardous Chemicals Right to Know Act.

SECTION 202 DEFINITIONS

FARM BUILDING. Any building not used for sleeping purposes that is not accessed by the general public and is used primarily for a bona fide farm purpose. Bona-fide farm purposes includes but is not limited to structures or buildings for storage and processing of agricultural products or commodities such as: crops, fruits, vegetables, ornamental or flowering plants, dairy, timber, livestock, poultry and all other such forms of agricultural products by the specific farm on which the structure or building is located. Bona-fide farm purposes do not include structures or buildings for uses such as education facilities, research facilities, or aircraft hangers.

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is January 1, 2019.

Reason Given – This purpose of this proposal is to provide a definition for a farm building.

Fiscal Statement – This rule is anticipated to provide equivalent compliance with a minimal decrease in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

7. Request by Robbie Davis, representing the NC Building Code Council Building/Fire Ad-Hoc Committees, to amend the 2018 NC Fire Prevention Code, Chapter 1, Section 102.13 Exception to applicability and Chapter 2, as follows:

102.13 Exception to applicability.

The provisions of this code shall not apply to the following:

1. Occupancy of one- and two-family dwellings.

~~2. Farm buildings located outside the building rules jurisdiction of any municipality.~~

Exception: All buildings used for sleeping purposes shall conform to the provisions of the technical codes:

2. Farm buildings not used for:

a. Sleeping purposes, or

b. Storage of hazardous materials in excess of those listed in Tables 5003.1(1) and 5003.1(2) within the building rules jurisdiction of any municipality.

3. The design, construction, location, installation or operation of equipment for storing, handling, and transporting liquefied petroleum gases for fuel purposes up to the first stage regulator, liquefied natural gases, and anhydrous ammonia or other liquid fertilizers.

4. The design, construction, location, installation or operation of equipment or facilities of a public utility, as defined in *N.C.G.S* 62-3, or an electric or telephone membership corporation, including without limitation poles, towers and other structures supporting electric or communication lines from the distribution network up to the meter location.

Exception: All buildings owned and operated by a public utility or an electric or telephone membership corporation shall meet the provisions of the code.

5. The Storage and Handling of Hazardous Chemicals Right to Know Act. North Carolina *N.C.G.S* 95-173 through 95-218.

6. Open burning pursuant to *N.C.G.S.* 106 - 940 through 106 - 950 under the jurisdiction of the North Carolina Department of Agriculture and Consumer Services.

CHAPTER 2 DEFINITIONS

FARM BUILDING. *Any building not used for sleeping purposes that is not accessed by the general public and is used primarily for a bona fide farm purpose. Bona-fide farm purposes includes but is not limited to*

structures or buildings for storage and processing of agricultural products or commodities such as: crops, fruits, vegetables, ornamental or flowering plants, dairy, timber, livestock, poultry and all other such forms of agricultural products by the specific farm on which the structure or building is located. Bona-fide farm purposes do not include structures or buildings for uses such as education facilities, research facilities, or aircraft hangars.

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is January 1, 2019.

Reason Given – This purpose of this proposal is to provide a definition for a farm building.

Fiscal Statement – This rule is anticipated to provide equivalent compliance with a minimal decrease in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

8. Request from Robbie Davis, representing the NC Building Code Council Building/Fire Ad-Hoc Committees, to amend the 2018 NC Fire Prevention Code, Chapter 1, Section 105.6.45 Temporary membrane structures and tents (mandatory permit), Section 105.7.18 Temporary membrane structures and tents and Chapter 31, Section 3103.2 Approval required, as follows:

CHAPTER 1 CHANGES

105.6.45 Temporary membrane structures and tents (mandatory permit). An operational permit is required to operate an air-supported temporary membrane structure, or a temporary stage canopy having an area in excess of 400 square feet (37 m²) or a tent having an area in excess of 400 800 square feet (37 74 m²).

Exceptions:

1. Tents used exclusively for recreational camping purposes.
2. Tents open on all sides, which comply with all of the following:
 - 2.1. Individual tents having a maximum size of 700 1800 square feet (65 148 m²).
 - 2.2. The aggregate area of multiple tents placed side by side without a fire break clearance of not less than 12 feet (3658 mm) shall not exceed 700 1800 square feet (65 148 m²) total.
 - 2.3. A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be provided.
3. Funeral tents and curtains or extensions attached thereto, when used for funeral services.

105.7.18 Temporary membrane structures and tents. A construction permit is required to erect an air-supported temporary membrane structure, or a temporary stage canopy having an area in excess of 400 square feet (37 m²) or a tent having an area in excess of 400 800 square feet (37 74 m²).

Exceptions:

1. Tents used exclusively for recreational camping purposes.
2. Tents open on all sides, which comply with all of the following:
 - 2.1. Individual tents having a maximum size of ~~700~~ 1800 square feet (~~65~~ 148 m²).
 - 2.2. The aggregate area of multiple tents placed side by side without a fire break clearance of not less than 12 feet (3658 mm) shall not exceed ~~700~~ 1800 square feet (~~65~~ 148 m²) total.
 - 2.3. A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be provided.
3. Funeral tents and curtains or extensions attached thereto, when used for funeral services.

CHAPTER 31

3103.2 Approval required. Tents and membrane structures ~~having an area in excess of 400 square feet (37 m²)~~ shall not be erected, operated or maintained for any purpose without first obtaining a permit and approval from the fire code official.

3103.2.1 Membrane Structures.

~~Membrane structures having an area in excess of 400 square feet (37 m²)~~

3103.2.2 Tents.

~~Tents having an area in excess of 800 square feet (74.32 m²).~~

Exceptions:

1. Tents used exclusively for recreational camping purposes.
2. Tents open on all sides ~~without sidewalls, drops or other physical obstructions on 75 percent or more of the perimeter~~ that comply with all of the following:
 - 2.1. Individual tents having a maximum size of ~~700~~ 1800 square feet (~~65~~ 148.6 m²).
 - 2.2. The aggregate area of multiple tents placed side by side without a fire break clearance of 12 feet (3658 mm), not exceeding ~~700~~ 1800 square feet (~~65~~ 148.6 m²) total.
 - 2.3. A minimum clearance of 12 feet (3658 mm) to all structures and other tents.
3. Funeral tents and curtains or extensions attached thereto, when used for funeral services.

3103.5 Use period. ~~Temporary tents~~ A temporary tent, air-supported, air-inflated or tensioned membrane structures shall not be erected for a period of more than 180 ~~consecutive~~ days within a 12-month period on a single premises.

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is January 1, 2019.

Reason Given – This purpose of this proposal is to allow larger temporary membrane structure construction without a permit.

Fiscal Statement – This rule is anticipated to provide equivalent compliance with a minimal decrease in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

9. Request from Robbie Davis, representing the NC Building Code Council Building/Fire Ad-Hoc Committees, to amend the 2018 NC Fire Prevention Code, Chapter 34, Section 3406.1 Required access, as follows:

3406.1 Required access.

New tire storage yards shall be provided with fire apparatus access roads in accordance with Section 503 and Section 3406.2. Existing tire storage yards shall be provided with fire apparatus access roads where required in Chapter 11 Section 3406.1.1.

3406.1.1 Existing tire storage yards.

Existing tire storage yards in excess of 150,000 cubic feet shall be provided with fire apparatus access roads in accordance with Section 3406.1.1.1 and 3406.1.1.2.

3406.1.1.1 Access to piles.

Access roadways shall be within 150 feet (45 720 mm) of any point in the storage yard where storage piles are located not less than 20 feet (6096 mm) from any storage pile.

3406.1.1.2 Location within piles.

Fire apparatus access roads shall be located within all pile clearances identified in Section 3405.4 and within all fire breaks required in Section 3405.5.

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is January 1, 2019.

Reason Given – This purpose of this amendment is to specify a minimum threshold for fire apparatus access roads for existing tire storage yards.

Fiscal Statement – This rule is anticipated to provide equivalent compliance with no net decrease/increase in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

10. Request from Robbie Davis, representing the NC Building Code Council Building/Fire Ad-Hoc Committees, to amend the 2018 NC Building Code, Section 1107.6.2.2.1 Type A units, as follows:

1107.6.2.2.1 Type A units.

~~In Group R-2 occupancies containing 44 or more than 20 dwelling units or sleeping units, at least 5 2 percent but not less than one of the units shall be a Type A unit. For a site with more than 100 units, at least 2 percent of the number of units exceeding 100 shall be Type A units. All Group R-2 units on a site shall be considered to determine the total number of units and the required number of Type A units. Type A units~~

shall be dispersed among the various classes of units. Bedrooms in monasteries and convents shall be counted as *sleeping units* for the purpose of determining the number of units. Where the *sleeping units* are grouped into suites, only one *sleeping unit* in each suite shall count towards the number of required *Type A unit*.

Exceptions:

1. The number of *Type A units* is permitted to be reduced in accordance with Section 1107.7.
2. *Existing structures on a site* shall not contribute to the total number of units on a *site*.

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is January 1, 2019.

Reason Given – This purpose of this amendment is to maintain the number of Type A units that are required by the IBC.

Fiscal Statement – This rule is anticipated to provide equivalent compliance with no net decrease/increase in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

11. Request from Robbie Davis, representing the NC Building Code Council Building/Fire Ad-Hoc Committees, to amend the 2018 NC Fire Prevention Code, Chapter 9, Section 903.4.1 Monitoring, as follows:

903.4.1 Monitoring.

Alarm, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an *approved* supervising station, where approved by the *fire code official*, shall be an audible signal at a constantly attended location.

Exceptions:

1. Underground key or hub valves in roadway boxes provided by the municipality or public utility are not required to be monitored.
2. Backflow prevention device test valves located in limited area sprinkler system supply piping shall be locked in the open position. In occupancies required to be equipped with a fire alarm system, the backflow preventer valves shall be electrically supervised by a tamper switch installed in accordance with NFPA 72 and separately annunciated.
3. ~~A group R-2 building sprinklered in accordance with NFPA 13R where sprinklers are provided for porches, balconies, corridors and stairs that are open and attached and installed supervised in accordance with Section 903.4. At a minimum an approved audible alarm device shall be provided on every sprinklered R-2 building in accordance with Section 903.4.2 of the North Carolina Fire Code. No on-site supervision is required at a constantly attended location.~~

1
2 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
3 1, 2019.
4 Reason Given – This purpose of this amendment is to maintain the alarm monitoring currently required by
5 the NC Codes.
6 Fiscal Statement – This rule is anticipated to provide equivalent compliance with no net decrease/increase
7 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
8 funds. A fiscal note has not been prepared.

9

10

11 **NOTICE:**

12 **Appeals and Interpretations** of the North Carolina State Building Codes are published online at the
13 following link.
14 http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Code_Interpretations&user=C
15 [ode_Enforcement_Resources](#)

16

17

18 **NOTICE:**

19 **Objections and Legislative Review** requests may be made to the NC Office of Administrative Hearings in
20 accordance with G.S. 150B-21.3(b2) after Rules are adopted by the Building Code Council.
21 <http://www.ncoah.com/rules/>

22

23



NORTH CAROLINA

State Board of Elections

Elections Systems Certification Program

JANUARY 31, 2017

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CHAIR

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SECRETARY

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MEMBER

Dr. Maja Kricker
MEMBER

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Contents

1	Objectives	1-5
2	Authority	2-1
2.1	General Supervisory Authority	2-1
2.2	Authority to Approve Official Ballots	2-1
2.3	Only Certified Voting Systems Permitted	2-1
2.4	Ongoing Compliance and Alteration to Program Requirements	2-2
2.5	Authority of the Executive Director	2-2
3	Voting Systems Certification	3-2
3.1	Overview	3-2
3.1.1	Program Goals	3-2
3.1.2	Presently Certified Products	3-3
3.1.3	Testing Levels	3-3
3.2	Terms and Acronyms	3-4
3.2.1	Definitions under this Program	3-4
3.2.2	Types of Voting Systems	3-5
3.2.3	Other Voting Systems Components	3-6
3.2.4	Voting Systems Components and Complete Voting Systems	3-6
3.2.5	Acronyms	3-6
3.3	Powers and Responsibilities	3-7
3.3.1	State Board of Elections	3-7

3.3.2	County Boards of Elections	3-7
3.3.3	Board of County Commissioners	3-8
3.3.4	Voting System Vendors	3-8
3.4	Voting System Standards and Requirements	3-13
3.4.1	Federal Standards	3-13
3.4.2	State Standards	3-14
3.4.3	Acceptance Test Standards	3-16
3.4.4	Scope of Certification	3-16
3.5	Voting System Certification Procedures	3-17
3.5.1	Letter of Request for Certification and Application	3-17
3.5.2	Receipt of Application	3-22
3.5.3	Functional Demonstration of the Voting System	3-22
3.5.4	Authorization to Proceed – Level 1	3-22
3.5.5	Technical Data Package and Corporate Information	3-23
3.5.6	Preliminary Review, Components of Documentation	3-23
3.5.7	Authorization to Proceed – Level 2	3-24
3.5.8	Non-operating, Environmental Evaluation	3-24
3.5.9	Simulated Election Event Evaluation (S.E.E.)	3-24
3.5.10	Public Demonstration Event	3-24
3.5.11	Public Comment Period	3-25
3.5.12	State Board of Elections Final Recommendation	3-25
3.5.13	Notification of State Board Decision	3-25

3.6	Simulated Election Event Procedures	3-25
3.6.1	Notification of Vendor Workflow.....	3-26
3.6.2	Testing Protocol.....	3-26
3.6.3	Ballot Preparation	3-33
3.6.4	Ballot Review and Approval.....	3-33
3.6.5	Test Script Generation and Test Deck Printing.....	3-33
3.6.6	Election Coding and Tabulation Software	3-33
3.6.7	Election Equipment Setup.....	3-34
3.6.8	Voting Demonstration using the Test Deck	3-34
3.6.9	Vote Tabulation Review	3-34
3.6.10	Election Results Import and Review	3-34
3.6.11	Adjudication and Canvassing.....	3-34
3.6.12	Recount Procedures.....	3-35
3.6.13	Tabulation by Voting Precinct	3-35
3.6.14	Integration into SEIMS	3-35
3.7	Post-Certification Requirements	3-35
3.7.1	Pre-Contract Procedures	3-35
3.7.2	Post County Acquisition and Adoption.....	3-36
3.8	Voting Systems Modification	3-37
3.8.1	Application & Documentation	3-37
3.8.2	Notification of Receipt of Application.....	3-38
3.9	Termination of Certification Process	3-38

Election Systems Certification Program

1 OBJECTIVES

The North Carolina State Board of Elections (State Board) strives to ensure that North Carolina's elections systems meet current, secure and uniform technology standards and furthers the efficient administration of fair and accurate elections by state and county officials across North Carolina. It is the mission of the State Board to serve North Carolina's citizens by ensuring the integrity of elections processes and the accuracy of voter rolls; to provide local elections officials with reliable and uniform tools and policies; to facilitate and encourage participation in the democratic process; and to contribute to the field of elections administration for the benefit of North Carolina. The State Board carries out its mission by establishing uniform rules, policies, procedures, and practices mandated by its appointed members and its executive director, who serves as North Carolina's chief state elections official.

The following objectives are furthered by the agency's commitment to public transparency and compliance with the requirements of state and federal law.

- The State Board seeks to provide a systematic and transparent certification process to election technology vendors wishing to do business in North Carolina.
- Voting systems and technologies used in North Carolina must be reliable, accurate, user-friendly, accessible to persons with disabilities in accordance with the scope of certification, and capable of secure operation and maintenance. These attributes must be demonstrated prior to certification for use in North Carolina, and continually for so long as the product is used within this state.
- The State Board requires that all components of voting systems integrate seamlessly and securely with the state's comprehensive elections technology program.
- No component may inhibit or compromise the state's core goals or impede elections administration. The components themselves must be well-tested, secure, and promote fairness and accuracy in elections.

2 AUTHORITY

2.1 GENERAL SUPERVISORY AUTHORITY

The State Board of Elections, under the authority granted to it by the North Carolina General Statutes, has general supervision over the primaries and elections in North Carolina and has the authority to make any reasonable rules and regulations with respect to the conduct of primaries and elections as it deems advisable, provided they do not conflict with any other provisions of the law. Consistent with this authority, the certification standards and procedures outlined in this document are applicable to all county boards of elections in North Carolina and apply to the administration of all elections in this state, including elections involving federal, state, county, municipal and local contests.

Unless otherwise directed by law, all processes affecting elections fall within the supervisory authority of the State Board. The North Carolina General Statutes direct the State Board to develop and administer requirements associated with voting systems and election technologies, the terms of which are set out in the Certification Program described herein (the "Program"). The State Board is required also to investigate irregularities and to ensure the overall integrity of the elections process. Accordingly, county boards of elections (CBE) may use only products that have been certified and that may be continuously reviewed for ongoing certification, as directed by the State Board.

2.2 AUTHORITY TO APPROVE OFFICIAL BALLOTS

The State Board approves the official ballots and voter instructions used in every election. Accordingly, the State Board may establish the scheduling, benchmarks, and tasks associated with this function. The State Board is responsible for composing model ballot instructions, which county boards of elections may amend, subject to approval by the State Board as part of the certification process, and the State Board may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical. The State Board is responsible for certifying that the content and arrangement of the official ballot substantially complies with North Carolina law and any standards adopted by the State Board. Accordingly, the State Board proofs the official ballot template in every county, if practical, prior to production.

Administrative integrity and overall security of the elections process require that the State Board maintain and exercise plenary authority in any matter involving the coding of official ballots. In order to produce the data necessary for equipment programming and accurate tabulation, each county shall either contract with a vendor certified by the State Board, become certified by the State Board to produce the data, or receive the data from the State Board directly.

2.3 ONLY CERTIFIED VOTING SYSTEMS PERMITTED

Only voting systems certified by the State Board of Elections may be used in a North Carolina election, including any in any county, municipality, or other electoral district within the state. The State Board has authority, upon notice and hearing, to decertify types, makes, and models of voting systems or to decertify vendors.

2.4 ONGOING COMPLIANCE AND ALTERATION TO PROGRAM REQUIREMENTS

Initial certification of a voting system or election technology is subject to a vote in the affirmative from a majority of the appointed members of the State Board. Certification is a status to be maintained, not a terminal event. All vendors seeking initial certification or operating certified products within North Carolina must submit to all standards, mandates, and requirements imposed by the State Board, either directly by a majority of its appointed members or through its executive director, regardless of whether such standards, mandates, or requirements were contemplated or foreseeable during initial certification.

The State Board members may, by a majority vote, alter requirements of this Program. All vendors acknowledge and agree that prior certification in no way restricts the authority of the State Board to alter certification requirements or to make demands of certified vendors, at its sole discretion and in accord with applicable law.

2.5 AUTHORITY OF THE EXECUTIVE DIRECTOR

The State Board's executive director is empowered to act under the State Board's authority in all matters associated with this certification program, including the performance of any act of the State Board described herein, unless otherwise provided and except that the State Board may revise or revoke any such act upon a majority vote. The executive director may exercise certain emergency authority to grant provisional certification, suspend or impose requirements, or temporarily decertify products for a term no longer than one (1) month, upon written notice to the appointed members of the State Board Members, who may exercise their authority to reverse that act.

3 VOTING SYSTEMS CERTIFICATION

3.1 OVERVIEW

3.1.1 Program Goals

The State Board has developed certification standards and procedures for voting systems to ensure the optimal administration of elections in this state. The standards provide a formal and organized process for vendors to follow when seeking state certification of their system. Likewise, these standards provide uniform guidance when a vendor seeks modification to an existing system certified for use. To this end, the procedures are designed to:

1. Ensure conformity with state election laws governing the acquisition and uniform price of certified products.
2. Provide a uniform means to test, monitor, and certify voting systems and elections technologies and equipment marketed for use in North Carolina.
3. Perform ongoing evaluation of certified equipment to monitor continuous compliance, security, and reliability, including continuous assessment of updates and changes in method, operation, or performance.
4. Provide a systematic process to decertify voting systems and equipment.

5. Ensure accurate reporting of all election results for any jurisdiction in which each a certified product is used, and to provide for monetary and procedural remedies in the event an election is affected adversely by a certified product.

Voting systems are components and processes by which a ballot is cast and tabulated, including mechanical and electronic voting equipment. All voting systems, including associated firmware, hardware, and software, must be and remain reliable, accurate, user-friendly, accessible to persons with disabilities in accordance with the scope of certification, and capable of secure operation and maintenance. Firmware, hardware and software products with performance proven in commercial applications may be deemed acceptable, provided that they are shown to be compatible with the operational and administrative requirements of this state's election management system and voting environment. The State Board may review all firmware, hardware, or software associated with a voting system.

3.1.2 Presently Certified Products

Products already certified by the State Board at the time of its adoption of this Program, and which have not since been modified or decertified will be considered provisionally certified for a period of twelve (12) months, except that any such vendor must within three (3) months post a bond and/or submit an approved letter of credit and/or place source code and documentation described in this Program into escrow, accompanied by transmission of application documentation required under this Program. Provisional certification described in this paragraph is intended to allow existing vendors to meet all certification requirements of this Program and does not certify systems otherwise not permitted under state law.

3.1.3 Testing Levels

There are three (3) distinct levels of testing that a voting system must successfully complete before a voting system may be certified by the State Board. These levels are (1) Federal Compliance Testing, (2) State Certification Testing, and (3) Acceptance Testing.

Federal Compliance Testing demonstrates that a voting system complies with the requirements of the most recent version or versions of the Voluntary Voting System Guidelines (VVSG) currently accepted for testing and certification by the Election Assistance Commission (EAC), along with any other then-existing federal certification requirements.

State Certification Testing is intended to ensure that a voting system complies with the requirements of the State of North Carolina. State Certification further examines the readiness of a voting system for use under the election management procedures currently in use or proposed for use with the system. State Certification Testing is distinct from Federal Compliance Testing and examines the fit between the voting system and the specific requirements and practices of North Carolina, including any requirements under law or those imposed by the State Board.

Acceptance Testing ensures that the system delivered is identical to that which was certified and operates in good working condition. This testing is conducted by the local jurisdiction with the assistance of state officials or consultants approved by the State Board. Acceptance testing will be performed as part of the procurement process for the voting system.

3.2 TERMS AND ACRONYMS

3.2.1 Definitions under this Program

Voting System: "Voting System" means the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, hardware, and documentation required to program, control, and support the equipment) that is used to define ballots; to cast or tabulate votes; to read election media; to report or display election results; and to maintain and produce any audit trail information. In addition, a "voting system" includes the practices and associated documentation and descriptions used to identify system components and versions of such components; to test the system during its development and maintenance; to maintain records of system errors and defects; to determine specific system changes made after initial certification; and to make available any materials to the voter (such as notices, instructions, forms, or paper ballots). No product, service, practice, or policy of the State Board shall constitute a "voting system" under this Program or be subject to the requirements thereof.

Ballot: "Ballot" means an instrument on which a voter indicates a choice so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term "ballot" may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, or a paper ballot used on any other voting system. "Paper ballot" means an individual paper document that bears marks made by the voter by hand or through electronic means.

Ballot Item: "Ballot item" means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.

Ballot Choice: "Ballot choice" means a single candidate or proposal listed on a ballot for or against which the voters are to choose among or between.

Ballot Style: "Ballot style" means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for a commissioner in different districts. The different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.

Election: "Election" means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this state or the United States. The term includes primaries, general elections, referenda, special, and runoff elections.

Limited Voting: "Limited Voting" means an electoral process in which voters have fewer choices than there are positions available for a ballot item.

Official Ballot: "Official ballot" means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections. The term does not include a sample ballot or a specimen ballot.

Provisional Official Ballot: "Provisional official ballot" means an official ballot that is provisionally voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote. Except for its envelope, a provisional official ballot shall not be marked to make it identifiable to the voter. The ballot may be marked to identify the ballot as being a provisional official ballot.

Referendum: "Referendum" means an election in which voters cast votes for or against ballot questions other than the election of candidates to office.

Statewide Computerized Voter Registration System (SEIMS): The State Board of Elections is responsible for the development and implementation of a statewide computerized voter registration system to facilitate voter registration and to provide a central database containing voter registration information for each county. The system serves as the single system for storing and managing the official list of registered voters in the state and is the official voter registration list for the conduct of all elections in the state.

Voting Booth: "Voting booth" means the private space within which a voter is to mark an official ballot.

Vote For: The number of selections a voter can make for a single ballot item.

Voting Precinct: "Voting precinct" means the proper precinct for a voter based on the residence where a voter has resided for at least 30 days prior to the date of an election, regardless of the voting place or precinct where a voter has cast his ballot.

Voting Enclosure: "Voting enclosure" means the room within the voting place that is used for voting.

Voting Place: "Voting place" means the building or area of the building that contains the voting enclosure.

Write-in Candidates: A "Write-in candidate" means a candidate who does not appear on the ballot, but can be written in for a specific ballot item and voted for.

3.2.2 Types of Voting Systems

Optical Scan

An electronic voting system that uses an optical scanner to read marked paper ballots and tally the results.

Electronically-assisted Ballot Marker (EBM)

Electronically-assisted Ballot Marker (EBM) refers to a voting system that first records votes by means of a ballot display, then generates a paper ballot that is viewable by the voter before the vote

is actually cast electronically. This system permits the voter to correct any discrepancy between the electronic vote and the paper ballot before the vote is cast.

Hand-count

Hand-count refers to a system of manually counting votes that have been marked by a voter without the use of any voting equipment or vote tabulation machine.

3.2.3 Other Voting Systems Components

Ballot Marking Equipment

Ballot marking equipment refers to a component of a voting system that permits the voter to mark a printed ballot by electronic means.

Ballot on Demand Printer

Ballot on demand is a dedicated application, possibly integrated with an electronic poll book and/or registration database, that prints the properly assigned ballot style as each voter is checked-in, based on the voter's registration information.

3.2.4 Voting Systems Components and Complete Voting Systems

A voting systems component is a stand-alone ballot marking device, a ballot on demand printer, or other device that can be configured or adapted to interact with other voting system components on a vendor-agnostic basis. A voting system component cannot be certified independent from a compatible voting system. Vendors cannot artificially separate a voting system into its component parts to in any manner reduce the requirements otherwise imposed by law or this Program.

3.2.5 Acronyms

CBE – County Board of Elections

CFR – Code of Federal Regulations

DRE – Direct Record Electronic

EAC – Election Assistance Commission

GS – North Carolina General Statutes

HAVA – Help America Vote Act

NC – North Carolina

NCAC – North Carolina Administrative Code

SBE – State Board of Elections

SEIMS - State Elections Information Management System

TDP – Technical Data Package

USC – United States Code

VSTL – Voting Systems Test Laboratory

VVSG – Voluntary Voting System Guidelines

3.3 POWERS AND RESPONSIBILITIES

3.3.1 State Board of Elections

The State Board is responsible for the certification of any new voting system, the decertification of any voting system in North Carolina, and the certification of any modification or change made to a voting system that is currently certified in North Carolina, as described in Section 3.1.2, above. Additionally, the State Board reserves the right to require recertification or review of any previously certified system.

The State Board may consider guidelines, information, testing reports, certification, decertification, recertification, and any relevant data produced by the EAC, its Standards Board, its Board of Advisors, or the Technical Guidelines Development Committee as established in Title II of the Help America Vote Act of 2002, as well as any other source it deems advisable in connection with any review, certification, decertification, or investigation of a voting system or vendor. The State Board may use, for the purposes of voting system certification, laboratories accredited by the Election Assistance Commission under the provisions of section 231(2) of the Help America Vote Act of 2002. Prior to certifying a voting system, the State Board of Elections shall review, and/or designate an independent expert to review, all source code made available by a prospective vendor and certify only those voting systems that comply with requirements under applicable law and this Program.

The State Board of Elections may specify mandatory terms of any contract for the purchase of a voting system and the maintenance and training related to that voting system. The State Board may issue model contract provisions and/or require specific terms in its administration of this Program. The State Board's general supervisory authority over elections in North Carolina and the provisions of this Program expressly authorize the State Board to alter certification requirements and to demand and receive any information, data, or explanation required of any vendor seeking certification or operating within the state.

The State Board must treat proprietary information as confidential and must prevent unauthorized disclosure. Nevertheless, it cannot guarantee the extent to which any material provided will be exempt from disclosure pursuant to an investigation, litigation, or other legal requirement.

3.3.2 County Boards of Elections

Before approving the adoption and acquisition of any voting system by the board of commissioners, the county board of elections shall:

NC STATE BOARD OF ELECTIONS
NC ELECTIONS SYSTEMS CERTIFICATION PROGRAM

3-7

- Recommend to the board of county commissioners which type of voting system should be acquired by the county;
- Witness a demonstration, in that county or at a site designated by the State Board of Elections, of the type of voting system to be recommended and witness a demonstration of at least one other type of voting system certified by the State Board of Elections, if more than one is available; and
- Conduct acceptance testing as described in Section 3.4.3.
- Test, during an election, the proposed voting system in at least one precinct in the county where the voting system would be used if adopted.

It is the responsibility of both the vendor and the County Board of Elections to ensure that a voting system that is supplied or purchased for use in North Carolina has been certified by the State Board of Elections.

3.3.3 Board of County Commissioners

The board of county commissioners, with the approval of the county board of elections, may acquire only a voting system of a type, make, and model certified by the State Board. The board of county commissioners may decline to adopt or to acquire any voting system recommended by the county board of elections.

3.3.4 Voting System Vendors

Failure on the part of the vendor to satisfy any of the following obligations in section 3.3.4 may result in termination of the vendor's application for certification, decertification of applicable voting systems, voidability of prior contracts for previously certified products, and may result in legal damages or other liability imposed by law. The vendor will forfeit all costs and fees already incurred pursuant to this Program. All foregoing obligations apply to recently decertified system in order to facilitate investigations conducted by the State or County Boards of Election. These obligations shall remain in effect until all investigations have been concluded. State law makes it a felony to violate certain duties required of a voting system vendors and imposes additional civil penalties to be assessed by the State Board, in its discretion. G.S. § 163-165.9A(b).

The following obligations that are documented in sections 3.3.4.1 through 3.3.4.5 apply to voting system vendors, even if they have not submitted an application to the State Board under 3.4.1.

3.3.4.1 *Independent Duty to Obey the Law and Stay Informed of Legal Changes*

The terms of this Program do not negate the vendor's obligations under applicable state or federal law, and the vendor is alone responsible to ensure it is aware of all legal requirements governing certification and operation in North Carolina. Certified vendors are expected to remain informed of legal changes that may affect its obligations.

3.3.4.2 *Vendors must bear costs*

Vendors shall bear all costs associated with necessary certifications, reviews, and reports required under this Program, including for all VSTL and third-party review. Questions regarding this requirement and any associated costs should be directed to the State Board at the earliest possible point in the certification application process.

3.3.4.3 *Must Prominently Mark Proprietary Information.*

The manufacturer must prominently mark any information that it requests be treated as confidential and proprietary before providing it to the State Board of its agent or representative for evaluation. It is not sufficient for the manufacturer to assert that everything is proprietary. Every page of documentation that contains information the manufacturer considers proprietary information must be clearly marked.

3.3.4.4 *Vendor may not sell uncertified products*

A voting systems vendor may not attempt to sell any voting system that has not been certified by the State Board. It is the responsibility of both the vendor and the County Board of Elections to ensure that a voting system that is supplied or purchased for use in North Carolina has been certified by the State Board of Elections. If any question arises involving the certification of a voting system in use in North Carolina, hardware and software system verification tools may be used to verify that the voting system in use is in fact identical to the voting system that was submitted for certification.

3.3.4.5 *Expressly Consents to be Subject to this Program*

By applying for certification, accepting certification, and/or operating within North Carolina, a vendor expressly consents to the authority of the State Board under all applicable law and the terms of this Program, understanding that certification is subject to ongoing review and may be conditioned on additional requirements imposed by the State Board.

The following obligations that are documented in sections 3.3.4.6 through 3.3.4.9 apply to voting system vendors after they have submitted an application to the State Board under 3.4.1. All obligations listed above continue to apply.

3.3.4.6 *Make Hardware Available for Inspection*

A vendor seeking certification or currently operating certified equipment within North Carolina must, upon the request of the State Board, make hardware available for inspection by the State Board. The hardware will be provided at the vendor's expense for a period of at least one month, or as requested by the State Board, and the vendor waives any claim for damages regarding that hardware, recognizing that the State Board may inspect and test any equipment seeking certification or currently in use within North Carolina.

3.3.4.7 *Software Licenses*

A vendor seeking certification or currently operating certified equipment within North Carolina must provide the State Board a copy of the software or firmware, granting the State Board a non-revocable use license while such software or firmware is under review by the State Board and for so long as the certified software is used in any jurisdiction within North Carolina. The use license will be furnished at the vendor's expense.

3.3.4.8 Disclosure Requirements

A vendor seeking certification or which has been certified must timely disclose in writing all prior instances of federal non-compliance, review, or investigation. A vendor shall promptly notify the State Board and the county board of elections in writing of any county using its voting system, of any decertification of the same system in any state, of any defect in the same system known to have occurred anywhere, and of any relevant defect known to have occurred in similar systems.

The vendor's duty to disclose continues at all times during which a vendor operates within North Carolina and does not terminate upon initial certification. A vendor seeking certification or which has been certified must timely disclose in writing all prior instances in which a vendor's products have been decertified by any state or jurisdiction within the United States, regardless of whether the decertified product has been certified in North Carolina. The vendor's duty to disclose continues at all times during which a vendor operates within North Carolina and does not terminate upon initial certification.

Written disclosure must be sent to the State Board of Elections in electronic form and by U.S. mail or private courier service, to the attention of the executive director. The State Board, at its discretion, may work with the vendor to gain additional information regarding any disclosed instance and may demand whatever information, data, or explanation it deems necessary or appropriate in the exercise of its ongoing review of certified voting equipment. Where third-party review is required under this Program, the vendor must authorize the third-party to report any and all information requested by the State Board, without limitation.

3.3.4.9 Provide information to the State Board upon request

The State Board's general supervisory authority over elections in North Carolina and the provisions of this Program expressly authorize the State Board demand and receive any information, data, or explanation required of any vendor seeking certification or operating within the state.

The following obligations that are documented in sections 3.3.4.10 through 3.3.4.16 apply to voting system vendors after they have been initially certified by the State Board. All obligations listed above continue to apply.

3.3.4.10 Escrow Requirements

A vendor seeking certification of a voting system that relies on electronic hardware, firmware, or software shall place in escrow with an independent escrow agent approved by the State Board, all items presently described in G.S. § 163-165.9A(a)(1), required by state law and by this Program., accompanied by the sworn affidavit required under G.S. § 163-165.9A(a)(2), and must be available as required under G.S. § 163-165.7 (a). The documentation to be escrowed includes, but is not limited to, a complete copy of the source and executable code, build scripts, object libraries, application program interfaces, and complete documentation of all aspects of the system. Further, the documentation includes, but is not limited to, compiling instructions, design documentation, technical documentation, user documentation, hardware and software specifications, drawings, records, and data. Additionally, the vendor must provide all instructions, manuals, and resources

required by the State Board, which are relevant to functionality, setup, configuration, and operation of the voting system. Documentation in escrow shall include a list of programmers responsible for creating the software and a sworn affidavit by the chief executive officer of the vendor that the source code includes all relevant program statements in low-level and high-level languages. The chief executive officer must affirm that the source code and other material in escrow is the same being used in its voting systems in this state. The chief executive officer shall ensure that the sworn statement is true on a continuing basis. The State Board of Elections may require that additional items be escrowed. A certified voting systems vendor must notify the State Board of Elections of any change in any item required to be escrowed and must supplement escrow accordingly.

That vendor must separately agree with the purchasing county that if the vendor is granted a contract to provide software for an electronic voting system but fails to debug, modify, repair, or update the software as agreed; or in the event of the vendor having bankruptcy filed for or against it, the source code described in G.S. 163-165.9A(a) shall be turned over to the State Board and to the purchasing county by the escrow agent chosen under G.S. 163-165.9A(a)(1) for the purposes of continuing use of the software for the period of the contract and for permitting access to the persons described in subdivision (6) of this subsection for the purpose of reviewing the source code.

3.3.4.11 Training

Due to variation between individual voting systems, the State Board may require additional training of state and/or local officials, including operational support prior to or during elections to ensure the proper functioning of the system. Such requirements will be tailored to the individual voting system during initial certification processes or may be imposed as a condition of ongoing certification.

3.3.4.12 Submit modifications

It is the responsibility of the manufacturer to submit any modifications to a previously certified voting system to the State Board of Elections for review. Any modification to the firmware or software of an existing system which has been initially certified by the State Board under the procedures described herein will act to decertify the system, unless the vendor demonstrates to the State Board's satisfaction that the modification does not and will not compromise the reliability, accuracy, user-friendliness, or secure operation and maintenance of that system.

3.3.4.13 Incorporate Program by Reference

All contracts between a certified vendor and any elections official, county, or jurisdiction within North Carolina must incorporate by reference this Program. The State Board's general supervisory authority over elections in North Carolina and the provisions of this Program expressly authorize the State Board to alter certification requirements and to demand and receive any information, data, or explanation required of any vendor seeking certification or operating within the state.

3.3.4.14 *Transmit a Copy of its Standard Purchase Contract*

The vendor must transmit to the State Board a copy of its standard purchase contract prepared for use in North Carolina

3.3.4.15 *Must Quote a Statewide Uniform Price*

The vendor must quote a statewide uniform price for each unit of the equipment. The statewide uniform price must be established and disclosed on a bimonthly basis (every other month), and may include unit pricing based on standard quantities purchased by the same county. The statewide uniform price must be transmitted to the State Board in writing on or before the first day of the bimonthly cycle. The statewide uniform price will be a matter of public record. All vendors must furnish the State Board with copies of sales receipts for all purchases of certified voting systems by any jurisdiction within North Carolina. Such receipts must be provided to the State Board on a quarterly basis. Compliance with the statewide uniform price requirement, as delineated under G.S. § 163-165.7(a)(7), is a condition of ongoing certification.

The following obligations that are documented in sections 3.3.4.10 through 3.3.4.16 apply to voting system vendors after they have engaged in a contract with one or more county boards of election. All obligations listed above continue to apply.

3.3.4.1 *Maintain a Local Office*

A vendor that has a contract to provide a certified voting system in North Carolina shall maintain an office in North Carolina with sufficient staff to service the contract.

3.3.4.1 *Post a Bond or Letter of Credit*

The vendor shall post a bond or letter of credit to cover damages resulting from defects in the voting system. Damages shall include, among other items, any costs of conducting a new election attributable to those defects. The bond or letter of credit must be provided in an amount and pursuant to terms specified by a vote of the appointed members of the State Board. The bond must be posted and maintained on a continuous basis, without interruption, and the State Board may require assurance at any time that such bond or a letter of credit remain in place.

3.3.4.2 *Privity of Contract*

Notwithstanding any agreement to the contrary, and as requirement of certification, the State Board shall have privity of contract in order, at its option, to enforce the terms of or recover under any contract between a certified vendor and any elections official, county, or governmental unit within North Carolina.

3.4 VOTING SYSTEM STANDARDS AND REQUIREMENTS

3.4.1 Federal Standards

3.4.1.1 General Standards

All voting equipment certified by the State Board of Elections must meet federal standards. This means all voting systems are tested to ensure compliance with the requirements of HAVA Sec. 301 and reviewed to ensure compliance with any other then-existing federal requirements. Such testing shall include functional evaluation of the audio capabilities, alternative means of selection and input (other than touch screen) and over-vote prevention and/or alerts.

The voting system or equipment must meet the requirements contained in the most recent version or versions of the Voluntary Voting System Guidelines (VVSG) currently accepted for testing and certification by the U.S. Election Assistance Commission (EAC). Compliance with the applicable VVSG may be substantiated through federal certification by the EAC, through certification by another state that requires compliance with the applicable VVSG, or through testing conducted by a federally certified voting system test laboratory (VSTL) to the standards contained in the applicable VVSG. A system that meets the requirements contained in the VVSG is considered to be in compliance with the voting system requirements contained in Section 301 of the Help America Vote Act of 2002 (HAVA).

3.4.1.2 Voting System Hardware Elements

The State Board will examine all hardware equipment associated with the voting system to determine its suitability for election use according to the appropriate procedures contained in this document. Equipment to be tested shall be identical in form and function with production units. Engineering or development prototypes are not acceptable.

3.4.1.3 Voting System Firmware and Software Elements

The State Board will examine all voting system firmware or software to ensure that it adheres to the performance standards specified in the most recent version or versions of the VVSG currently accepted for testing and certification by the EAC, along with any then-existing federal requirements.

3.4.1.4 Evidence of Compliance

The vendor must provide primary evidence of compliance with the requirements of its system by the EAC. However, federal compliance may also be demonstrated through certification by another state electoral authority that requires compliance with the applicable VVSG or through testing conducted by a federally certified Voting System Test Laboratory (VSTL) to the applicable VVSG. The State Board, at its option, may require other or additional evidence of current federal compliance. A vendor must maintain federal compliance at all times during which it operates in North Carolina. The State Board will make the final decision on compliance based on all available information.

3.4.1.5 Reciprocity

The State Board of Elections may accept the qualification tests of the hardware and/or software of a voting system conducted by another state electoral authority that requires compliance with the applicable VVSG or through testing conducted by a federally certified VSTL to the applicable VVSG. Any such tests that are accepted may be used to support certification approval in conjunction with, or in lieu of, EAC or State Board of Elections testing. Reciprocity is not available, however, unless the appointed members of the State Board vote to extend reciprocity under this section upon the recommendation of the executive director of the State Board.

3.4.2 State Standards

3.4.2.1 General Standards

The state certification test is not intended to result in exhaustive tests of system hardware and software attributes; these are evaluated during federal compliance testing. However, all system functions, which are essential to the conduct of an election in the State of North Carolina, will be evaluated by the State Board during this phase.

The voting system or equipment must comply with the provisions in of North Carolina law governing voting equipment and any applicable rule, regulation, or policy issued by the State Board of Elections.

3.4.2.2 Handling Precincts and Reporting Groups

The voting system must be able to configure, collect, process, tabulate, and store election results data in a manner that allows reporting by a voter's proper voting precinct and the method by which the ballot was cast. The system must be able to accommodate a minimum of five reporting groups or voting methods, in addition to reporting the total number of votes for each ballot choice. Any or all of reporting must be made available on an as-needed basis.

3.4.2.3 Multi-page Ballot

The voting system must be able to configure, collect, process, tabulate, and store election results data involving a multi-page ballot.

3.4.2.4 Handling Election Contest Jurisdictions and Special Contest Elements

The voting system must permit the generation and proper tabulation of ballots such that each voter can be presented a single ballot containing all contests for which he or she is eligible to vote, and no contests for which he or she is not eligible to vote.

The ballot configuration procedures must take into account precinct, jurisdictional districts, contests, candidates, party affiliation, and other nongeographic voter classifications such as may be related to age, registration date, or other voter category. In addition, ballot configuration must also take into account the following elements that are unique to certain contests in North Carolina:

1. Vote For Number
2. Write-in Candidates
3. Limited Voting

3.4.2.5 Ballot Layout and Generation

The voting system must allow the definition of ballot formats for partisan primary elections, non-partisan primary elections, general elections, special elections, election runoffs, and referendum elections. With respect to electronic voting systems, the voting system must generate a paper ballot of each individual vote cast, which paper ballot shall be maintained in a secure fashion and shall serve as a backup record for purposes of any hand-to-eye count, hand-to-eye recount, or other audit. The system must provide for the generation of ballots that can be used for absentee voting, provisional voting and Election Day voting. The system must also produce sample ballots and electronic images of ballots for military and overseas citizens that utilize absentee voting.

3.4.2.6 Voter Privacy

The voting system must permit the voter to verify, in a private and independent manner, the vote selected by the voter on the ballot before the ballot is cast and counted.

3.4.2.7 Ballot Correction

The voting system must provide the voter with the opportunity, in a private and independent manner, to change the ballot or correct any error before the ballot is cast and counted.

3.4.2.8 Ballot Warning

The voting system must have the ability to notify the voter discretely that he or she has selected more than the allowed number of candidates for any single office, inform the voter of the effect of casting multiple votes for a single office, and provide the voter an opportunity to correct the ballot before it is cast and counted.

3.4.2.9 Accessibility

Where applicable, the voting system must be accessible for individuals with disabilities in a manner that provides the same opportunity for access and participation, including protection of privacy and independence, as is made available for other voters.

3.4.2.10 Integrity of Vote Count

The voting system must maintain the integrity of the vote by, at minimum, establishing processes and mechanisms necessary to secure the security of electronic tabulation processes, the paper ballot, and to prevent unauthorized access to any critical component of the voting system. It is the expectation of the State Board that voting systems include and maintain robust security mechanisms to preserve the integrity of the election process. The voting system shall not produce a written receipt of the voter's selection that may be removed from the voting enclosure by the voter.

3.4.2.11 Integration with SEIMS

The voting system must be capable of accepting a flat file directly from the Statewide Elections Information Management System (SEIMS) securely and without use of an intervening third-party software (such as Microsoft Access) and populating all necessary election definitions.

At the adoption of this Program, SEIMS can only accept one tabulated results flat file per election. Therefore, county boards of elections will need to use one vendor for all certified voting systems. This would not necessarily restrict them from using a different vendor for providing a standalone voting system component such as a ballot printer or ballot marketing device that is configured to work with multiple voting systems.

3.4.3 Acceptance Test Standards

Acceptance Testing ensures that the system delivered is identical to that which was certified and operates in good working condition. This testing is conducted by the local jurisdiction with the assistance of state officials or consultants approved by the State Board. Acceptance testing will be performed as part of the procurement process for the voting system.

The local jurisdiction will conduct tests to confirm that the purchased or leased system to be installed is identical to the certified system and that the installed equipment and/or software are fully functional and capable of satisfying the administrative and statutory requirements of the jurisdiction. The state may require localities to perform hash testing of applications software for this purpose. The State Board will request that upon acquiring equipment, the locality shall forward a letter to the State Board confirming that the versions of all software and model(s) of equipment received are identical to the certified system that was ordered.

Typically, the acceptance test will demonstrate the system's ability to execute its designed functionality as advertised and tested, including but not limited to:

1. Process simulated ballots for each precinct or polling place in the jurisdiction.
2. Reject over-votes and votes not in valid ballot positions.
3. Handle write-in votes.
4. Produce an input to or generate a final report of the election, and provide interim reports as required.
5. Generate system status and error messages.
6. Comply with and enable voter and operator compliance with all applicable procedural, regulatory, and statutory requirements.
7. Produce an audit log.

3.4.4 Scope of Certification

The State Board can certify a voting system so that it is approved as a certified system only for non-ADA Election Day activities or it can include one or more of the following certifications

The State Board may certify that the voting system may be used for ADA compliance

In order to meet this heightened standard, the vendor must ensure that the equipment and software can accommodate interactive visual and non-visual presentation of information as well as alternative language to voters, as required. See HAVA, 42 USC 15481(a)(3), (4), §203 of the Voting Rights Act (42 USC 1973aa-1a North Carolina General Statutes Chapter 163, Subchapter III, Art. 8A). The voting system must be accessible for individuals with disabilities in a manner that provides the same opportunity for access and participation, including protection of privacy and independence, as is made available for other voters.

The State Board may certify that the voting system may be used for absentee and early voting.

In order to meet this heightened standard, the voting system must be able to create a retrievable ballot, where an indication number can be placed on the ballot in a manner that protects the privacy of the voter's selections.

3.5 VOTING SYSTEM CERTIFICATION PROCEDURES

The evaluation of the voting system shall proceed in the following steps:

3.5.1 Letter of Request for Certification and Application

The Certification procedure shall be initiated by the vendor of the voting system by completing a North Carolina Elections Systems Certification Application, which is to be created and distributed by the State Board, and sending it with a letter, and accompanying documentation addressed to:

North Carolina State Board of Elections
ATTN: Voting System Certification
P.O. Box 27255
Raleigh, NC 27611-7255

Physical mailing may be waived orally by the State Board and required documents may be submitted digitally as directed. The Letter of Request for Certification and Application (collectively, "Application Documentation") must include the following items, as delineated in 3.4.1.1 through 3.4.1.9. If the voting system is certified, the State Board will retain all Application Documentation as long as the voting system is marketed or used in North Carolina. After initial certification, the vendor will be required to update all Application Documentation as information becomes available, or as changes or modifications occur, or as modifications to the system are considered for certification, and to comply with all post-certification requirements of the State Board. The executive director will serve as the point of contact for all written submission required under this Program, unless otherwise directed by the State Board.

3.5.1.1 Equipment Documentation

The vendor must identify the specific voting system to be evaluated for certification. Each different voting system or version of a voting system requires a separate request for certification. Each component of the hardware, firmware, and software must be identified by version number.

The vendor shall provide a brief description of the voting system. Typical marketing brochures may be sufficient for to meet the requirements of this subsection.

3.5.1.2 Technical Data Package

Before evaluation can begin, the manufacturer must submit to the State Board a *technical data package (TDP)*. Each item in the package must be clearly identified; if the TDP is incomplete or the items in the package are not clearly identified, the entire package may be returned to the manufacturer and the evaluation of the voting system rescheduled.

The *TDP* must contain the following items:

1. **Hardware Schematic Diagrams:** Schematic diagrams of all hardware.
2. **Hardware Theory of Operations:** Documentation describing the operation of the hardware.
3. **Customer Maintenance Documentation:** Documentation describing any maintenance that the vendor recommends can be performed by a customer with minimal knowledge of the system.
4. **Operations Manual:** Operations documentation that is normally supplied to the customer for use by the person(s) who will operate the equipment.
5. **Recommended Use Procedures:** Specific election administration procedures recommended for use with the system.
6. **Software License Requirements.** The software license agreement must be perpetual. An annual renewable support fee may be included as an option.
7. **Software Source Code.** It shall be supplied in the form of a listing and in a machine-readable form on media that is readable by the voting system. If there is any chance of ambiguity, the required compiler must be specified.
8. **Software System Design:** Documentation describing the logical design of the software. This documentation should clearly indicate the various modules of the software, their functions, and their interrelationships with each other. The minimum acceptable documentation is a system flowchart.
9. **Customer Documentation.** A complete set of all documentation that is available to the purchaser/user of the voting system. Clearly identify the documentation that is included in the cost of the system and the documentation that is available for an additional charge.
10. **Standard Contract.** Statement of deliverables to include: verification statement that equipment purchased is identical to equipment certified by the State Board of Elections, software licenses, warranties, support services provided, etc.
11. **Warranty.** The period and extent of the warranty and the method of repair/replacement for all hardware items; the circumstances under which equipment is replaced rather than repaired and the method by which a user requests such replacement; additional warranties that are available over and above the standard warranty, what these warranties cover, and their costs; the period and extent of warranty and the method of correction or replacement for all software provided as part of the voting system; and the technical documentation provided with all hardware and software that is used to certify that the individual component will perform in the manner and for the specified time.

12. **Test Data/Software:** Any available test data, ballot decks, and/or software that can be used to demonstrate the various functions of the voting system or verify that the version of the applications submitted are identical to the versions that have undergone federal compliance testing (i.e. hash testing tools).
13. **Recommended Security Practices:** Documentation of the practices recommended by the vendor to ensure the optimum security and functionality of the system.

3.5.1.3 Testing Documentation

Federal: The vendor shall provide copies of documents that substantiate the product's completion of federal compliance testing, including:

1. Documents that show whether the proposed voting system has been certified under the most recent version or versions of the VVSG currently accepted for testing and certification by the EAC in another state or by a VSTL;
2. A certified copy of the results of the evaluation of the voting system under the most recent version or versions of the VVSG currently accepted for testing and certification by the EAC that clearly identify the system evaluated and specifies the version numbers of all components of the hardware, firmware, and software;
3. An audit report of the business' most current fiscal year. Multiple reports may need to be submitted depending on the business' fiscal calendar and the length of time to complete the certification process.

The vendor should also provide a copy of the system's Election Assistance Commission's certification, as applicable.

Other States or Local Jurisdictions: The vendor must provide copies of documents substantiating completion of testing for other states or local jurisdictions where vendor has tested and holds voting system certifications and contracts.

Denial of Certification: The vendor must provide any documentation of testing on the proposed voting system if it has ever been denied certification or had certification withdrawn in any state or by the EAC. *See also* the ongoing disclosure requirements identified at Section 3.3.4.8, above.

3.5.1.4 Transfer of Certification (Reciprocity)

If the voting system has successfully completed qualification testing by the EAC or another state, the State Board of Elections may accept the results of those tests. In this case, the technical data package shall contain the following item in addition to the items described above:

Qualification Test Report. A certified copy of the results of the evaluation of the voting system under the most recent version or versions of the VVSG currently accepted for testing and certification by the EAC. This report must clearly identify the system evaluated, specifying the version numbers of all components of the hardware, firmware, and software. The evaluation report or an accompanying letter shall identify the state for which the evaluation was performed, the responsible state official, the organization conducting the evaluation, and the individual responsible

for the evaluation. This report must be sent to the State Board of Elections directly from the organization that conducted the evaluation.

To support a review of Federal Compliance Testing, the following documents shall be provided to the State Board:

1. A full copy of the technical data package;
2. A copy of the Test Plan, Test Report and all Test Procedures and Test Cases used by the Voting System Test Lab (VSTL) in performing EAC certification testing or results of testing conducted by a VSTL to the applicable VVSG outside of the federal certification process;
3. A release to the VSTL and EAC to respond to any requests for information from the State of North Carolina;
4. A release to other states that have certified the system or prior versions of the system to respond to any requests for information from the State of North Carolina; and
5. Any additional information the State Board of Elections believes is necessary to determine compliance with the applicable Voluntary Voting System Guidelines or Voting System Standards.

3.5.1.5 Corporate Information

The manufacturer must submit to the State Board the corporate information as detailed below with each item clearly identified. If the corporate information is incomplete or the items in the package are not clearly identified, the entire package may be returned to the vendor and evaluation of the voting system rescheduled.

The corporate information shall contain the following items:

1. History and description of the business including year established, products and services offered, areas served, branch offices and subsidiary and/or parent companies.
2. Management and staff organization, number of full time employees by category, number of part-time employees by category, resumes of key employees who will assist North Carolina localities in acquiring the system if it is authorized for use.
3. Audited Report of the business' most current fiscal year. Multiple reports may need to be submitted, depending on the business' fiscal calendar and the length of time to complete the certification process. The certification process may take as long as a year.
4. Comfort letter from the business' primary bank. If the business uses more than one bank, a letter from each bank is required.
5. Financial history of the business including a financial statement for the past three (3) fiscal years. If the manufacturer is not the manufacturer of the equipment for which application is made, a financial statement for the vendor for the past three (3) fiscal years shall be included.
6. Gross sales in voting products and services for the past three (3) years and the percent that is representative of the total sales of the business and its subsidiaries.

7. The location and manufacturing capability of each manufacturing facility that is used to fabricate and assemble all or any component part of the voting and/or tabulating system being submitted for certification.
8. The location and servicing capability of each service facility that will be used to service the voting and/or counting system for certification and the service limitation of the facility.
9. If publicly traded, indexes rating the business debt.
10. Quality assurance process used in the manufacturing of the voting system.
11. Configuration management process used with the voting system.

3.5.1.6 Jurisdictional References

Currently Certified: Provide the name of the state or local jurisdiction, the year in which the system was certified, the number of pieces of equipment that are in operation, and the number of elections in which the equipment has been used. Also, provide a contact name, telephone number and email address for the primary contact for the state or local jurisdiction.

Pending Certification: List of other states or local jurisdictions where certification is currently pending certification.

Rejection or Decertification: List of other states or local jurisdictions who have rejected or decertified the system.

3.5.1.7 Ballot Specification

The vendor must provide or define all ballot formats, sizes and paper specifications. Indicate whether system mandates the use of any special ballot paper in weight or cut. Descriptions should, wherever possible, be provided in generic and standard terms, rather than referencing a proprietary brand.

3.5.1.8 Requirements for Maintaining

Consumables: List of items that must be used by the system and whether such items must be purchased from the vendor or may be available commercially. Vendor must provide list of all consumables required to operate the system, including, but not limited to: printer ribbons, paper rolls, batteries, removable memory packs, cancellation stamps, ink pads or red stripe pens, etc. and the expected lifespan of each consumable.

COTS Components – For each Commercial Off-the-Shelf (COTS) component of the system (hardware, firmware, or software), the vendor must identify the following:

Name/Model/Version – If a component is specified for the voting system, please provide the exact name, model and version number for the component. Alternatively, if minimal specifications are prescribed for the component, please provide a descriptive name.

Manufacturer or Specs; Description – If a particular make and version of the component is required for the voting system, please identify the manufacturer. Please also include a brief description of the component and its role in the voting system.

Preventive Maintenance: If not explicitly included in the TDP, vendor must provide the requirements to maintain the equipment, including the recommended maintenance schedule. The vendor must provide requirements of who or what entities are capable of providing the maintenance. Vendor must specify what is included in the maintenance of the equipment and what is not included.

Environmental Requirements and Storage: If not explicitly included in the TDP, vendor must list the requirements for storage.

3.5.1.9 Training and Election Support

State what training and election support is provided to purchasers of the equipment. Understanding that the State Board may require training or support in the implementation of certified voting systems, vendor must disclose foreseeable limitations on its ability to provide training and system support to the State Board as requested. *See* Section 3.1.3.4, above.

3.5.2 Receipt of Application

Upon receipt of the application, the State Board of Elections will notify the vendor that the request has been received and will inform the vendor of any apparent omissions or outstanding documentation necessary for the review process to proceed. The notification may, at the State Board's discretion, also invite the vendor or manufacturer to present a technical demonstration of the voting system at a location to be determined by the State Board of Elections.

If, based on a preliminary review of the application and its contents, the State Board finds there is a reason to deny the request for certification, the vendor shall be notified.

3.5.3 Functional Demonstration of the Voting System

At the discretion of State Board of Elections, the vendor will arrange with staff a high-level functional demonstration of the system. This is not a sale's or marketing demonstration, but a demonstration of the key functions of the voting system. All expenses incurred by the voting systems vendor for this demonstration are the responsibility of the vendor.

3.5.4 Authorization to Proceed – Level 1

After the functional demonstration, the vendor will receive notification to arrange for an evaluation agent to proceed with the procedural and technical evaluation of the voting system. The evaluation agent will be selected and hired by the State Board of Elections. The vendor will be provided the contact information for the evaluation agent. The vendor will be responsible for the payment of all fees charged by the evaluation agent to proceed with certification. The State Board will provide the evaluation agent with all Application Documentation that it has received.

3.5.5 Technical Data Package and Corporate Information

The vendor shall submit the technical data package, corporate information, and other material described in the previous section of this document to inspection by the evaluation agent.

The evaluation agent will review the technical data package, corporate information, and other materials provided and notify the manufacturer of any deficiencies. Certification of the voting system will not proceed beyond this step until the technical data package and corporate information are complete, unless otherwise directed by the State Board.

3.5.6 Preliminary Review, Components of Documentation

The evaluation agent will conduct a preliminary analysis of the technical data package, corporate information, and other materials provided and prepare an *evaluation proposal* that contains the following information:

1. Identification of any additional materials required to ascertain financial stability and capabilities of the vendor to maintain support of the voting system.
2. Description of the activities required to complete the portion of the evaluation performed by the State Board of Elections.
3. Estimate of time required to complete the portion of the evaluation performed by the evaluation agent.

The evaluation expert shall serve as the required independent expert who must review all source code made available by the vendor. At a minimum, the review shall include a review of security, application vulnerability, application code, wireless security, security policy and processes, security/privacy program management, technology infrastructure and security controls, security organization and governance, and operational effectiveness, as applicable to that voting system.

An important focus of State Certification Testing is a review of experience with the current and prior versions of the system and the results of other state certification examinations. Any testing and or experiences of other states using the system may be considered. This review requires making inquiries of other users of the system. State certification reports and other evaluations of the system are read and analyzed for insight into the suitability of the system for use in North Carolina.

The recommended use procedures are examined along with the voting system to determine how well the system will integrate into the State of North Carolina election law and management practices.

Testing is performed to evaluate the system with respect to the specific practices of the State of North Carolina. Testing will evaluate all system operations and procedures that:

1. Define ballot formats for an election, including all voting options and instructions required by North Carolina law and the State Board;
2. Install application programs and election-specific programs and data in the ballot counting device;

3. Verify system readiness for operation;
4. Ballot Tabulation;
5. Perform status tests;
6. Obtain voting data and audit data reports;
7. Support recount or election audits; and
8. Address compliance with physical and language accessibility requirements.

The test environment will include the preparation and operation of election and voting databases, and the validation, consolidation, and reporting of administrative and voting data as required by law. The state may perform hash testing of applications software to verify that the versions provided by the vendor are identical to the versions that have undergone federal compliance testing.

3.5.7 Authorization to Proceed – Level 2

The manufacturer will review the *evaluation proposal* and notify the State Board of Elections, in writing, of its recommendation to continue or terminate the evaluation process. A copy of this notification will be sent to the evaluation agent.

3.5.8 Non-operating, Environmental Evaluation

The manufacturer will arrange for any non-operating, environmental evaluation, if required, and submit the results of these tests to the State Board of Elections and evaluation agent. After any required non-operating, environmental tests have been successfully completed, the evaluation agent will conduct the simulated election event evaluation described in the evaluation proposal and submit a report of the findings to the State Board. Any such evaluation will be at the vendor's sole expense, and the State Board must be provided any and all documentation requested.

3.5.9 Simulated Election Event Evaluation (S.E.E.)

The vendor must coordinate with agency staff designated by the State Board to conduct a *simulated election event* using the system to be certified. This is an "end-to-end" test. All election event workflow tasks necessary to conduct an election in North Carolina must be demonstrated and tested, including but not limited to setting up election definitions, equipment and ballot coding, ballot printing, generating equipment media, ballot and equipment testing, tabulation of election results, importing election results into the election reporting system used in North Carolina, canvassing and adjudication procedures, recount procedures, and final reporting by precinct. *See* Section 3.8 for additional details. *See also* Certification and Testing Scenarios and NC General Election Definition Document (Attached as Appendix A)

3.5.10 Public Demonstration Event

The State Board's executive director will notify the appointed members of the State Board of Elections of the *Simulated Election Event (S.E.E.)*. If the report received by the State Board members concludes that the voting system performed successfully in the S.E.E., the State Board may appoint a voting systems certification team to make the final recommendation for certification. Prior to any final evaluation, the State Board will designate a voting systems certification team to schedule a public demonstration event. The public demonstration event will permit members and interested parties to directly engage with the voting

system. This public event must be scheduled within 90 days following a favorable S.E.E. The public testing may span more than one day and will be held at a location to be determined by the State Board. Notice of the public demonstration must be distributed no later than 14 days before the date of the event. The notice shall be given to:

1. Vendor or Manufacturer
2. County boards of elections
3. Chair of each recognized political party in North Carolina
4. Any recognized or identified elections advocacy groups operating in North Carolina
5. Any recognized or identified disability rights advocacy groups operating in North Carolina
6. Media

The State Board will determine whether the public demonstration meets expectations. If the public demonstration does not meet expectations, the vendor will be notified of any deficiencies and given the opportunity to respond, correct deficiencies, or withdraw their request for certification.

3.5.11 Public Comment Period

Following the conclusion of the public demonstration event, there will be a period of at least one week to receive public comments prior to a State Board of Elections meeting to make a final recommendation on the certification of the system.

3.5.12 State Board of Elections Final Recommendation

The executive director will prepare a final recommendation regarding certification for consideration by the appointed members of the State Board. The appointed board may then consider and vote upon the certification at its discretion.

3.5.13 Notification of State Board Decision

The vendor will receive a notification of the State Board of Elections decision.

3.6 SIMULATED ELECTION EVENT PROCEDURES

The State Board must ensure that any voting system used in North Carolina will meet the need of elections administrators. During this phase of the certification process, the prospective vendor will need to work with voting system staff designated by the State Board to run the system or any component thereof through North Carolina's standard election event workflow procedures. In this phase, important tasks will include: preparing the voting system for use in an election; producing appropriate ballot formats; testing voting system and ballot materials have been properly prepared and are ready for use; recording and tabulating votes; consolidating and reporting election results; displaying results on-site and/or remotely; producing and maintaining a comprehensive audit trail data; and securing the process as a whole.

3.6.1 Notification of Vendor Workflow

The vendor must provide the State Board with a checklist of the information and data that is needed from a jurisdiction to produce election and ballot coding. The checklist should include the file layout and file type that the vendor's system will need to produce the coding. The vendor should specify which modules or applications within its vote tabulation software that will require some entry or import by the jurisdiction to produce its election ballot and/or tabulation coding and the timing by which this task should be performed.

3.6.2 Testing Protocol

State certification testing is intended to verify that the design and performance of the voting system under review complies with all applicable requirements of North Carolina law and State Board regulations and policies.

North Carolina law requires the state to examine a production model of such equipment and ballots associated with a vendor's request for state certification.

North Carolina's mandatory certification testing requirements prescribe the manner in which the state will conduct the certification testing. Testing will evaluate all system operations and procedures that:

1. Define ballot formats for a primary election and a general election, including all voting options defined by North Carolina law;
2. Install application programs and election-specific programs and data in the ballot counting device;
3. Verify system readiness for operation;
4. Ballot Tabulation;
5. Perform status tests;
6. Obtain voting data and audit data reports;
7. Support recount or election audits; and
8. Address compliance with physical and language accessibility requirements

The test environment will include the preparation and operation of election and voting databases, and the validation, consolidation, and reporting of administrative and voting data as required by law. The state may perform hash testing of applications software to verify that the versions provided by the vendor are identical to the versions that have undergone federal compliance testing.

The scope of this testing event will incorporate a sufficient spectrum of physical and functional tests to verify that the system conforms to North Carolina's requirements. Specifically, the testing event has the following goals:

1. Ensure voting system provides support for all North Carolina election management requirements (i.e. ballot design, results reporting, recounts, etc.).
2. Simulate pre-election, Election Day, recounts, and post-election activities on the system under evaluation.

3.6.2.1 Scenario(s)

The following election scenarios will be used to test various requirements as detailed in the testing procedure:

Pre-programmed scenarios: (Sample selected elections listed below-others can be substituted for with the State Board's permission)

1. North Carolina General Election
2. North Carolina Primary Election

In preparation for each pre-programmed scenario, the vendor is expected to prepare (or obtain) the pre-printed, pre-marked ballot sets for each election, and a comparison results file for each set of ballots to allow for comparison to scanned results in comma separated values (CSV), unless otherwise directed by the State Board.

Ballot marking vote targets on the General Election and Primary test decks will be marked with sufficient size and density that will result in an unambiguous vote. Partial or stray marks may also be tested.

3.6.2.2 Test Configuration

The testing event will utilize one setup of the system and its components. The vendor must provide a breakdown of the system components and configurations for the test setup.

3.6.2.3 Standard Testing Platform:

The vendor must provide a description of the system under test configuration.

3.6.2.4 Testing Components

The vendor must provide a detailed description of the components to be tested, including all software, hardware, and peripherals, both proprietary and COTS, and any test support equipment or materials necessary for test performance.

3.6.2.5 Reference Materials

The vendor must provide any relevant reference materials utilized during the evaluation.

3.6.2.6 Test Support Materials

The following materials, if needed to facilitate testing, are expected to be supplied by the vendor:

1. USB Flash Drives
2. Ethernet Cables

3. Paper Rolls
4. Pressurized air cans
5. Power Cords
6. Marking Devices
7. Lint-free cloth
8. Cleaning pad and isopropyl rubbing alcohol
9. Labels
10. Any other materials or equipment required

3.6.2.7 Procedure

The following procedure outlines the steps that the test team will execute to evaluate the voting system. The State Board reserves the right, without limitation, to alter the ordinary procedure as necessary.

1. Election Definition
2. Ballot Preparation
3. Ballot Review and Approval
4. Test Script Generation and/or Test Deck Printing
5. Election Coding and Tabulation Software
6. Election Equipment Setup
7. Voting Demonstration using the Test Deck
8. Vote Tabulation Review
9. Election Results Import and Review
10. Canvassing and Adjudication
11. Recount Procedures
12. Tabulation by Precinct

3.6.2.8 Schedule

The examination for Procedural steps 6 – 12 may be scheduled over multiple business days under a schedule set by the State Board. The exam will begin with testing initialization. And proceed from there through the test plan.

3.6.2.9 Testing Initialization

The testing initialization will seek to establish the baseline for testing and ensure that the testing candidate matches the expected testing candidate and that all equipment and supplies are present.

The following will be completed during the testing initialization:

- Ensure proper system setup of equipment. Check network connections, power cords, keys, etc.

- Check version numbers of (system) software and firmware on all components.
- Verify the presence of only the documented COTS.
- Ensure removable media is clean.
- Ensure batteries are fully charged.
- Inspect supplies and test decks.
- Record any protective counter on all tabulators.
- Review physical security measures.
- Record basic observations of the testing setup and review.
- Record serial numbers of equipment.
- Retain proof of version numbers.

3.6.2.10 Scenario Setup

Prior to Certification Testing

1. Election exports listed below shall be provided to the manufacturer by the North Carolina State Board of Elections:
 - a. Primary Election from large county
 - b. General Election from large county
 - c. Primary Election from complex county
 - d. General Election from complex county
2. Ballot images shall be provided to the North Carolina State Board of Elections from the manufacture:
 - a. Within three (3) business days from receiving election files
 - b. All four elections must be provided prior to scheduling certification testing at the lab
 - c. All issues, questions, and concerns shall be directed to the North Carolina State Board of Elections
 - d. Failure to provide ballot images or inability to create elections from the exports shall prevent the manufacturer from proceeding

Scenario Setup

1. Pre-election system setup:
 - a. Full voting system, ballots, and all peripherals submitted for certification shall be delivered to the North Carolina State Board of Elections appointed VSTL

- b. Physical Configuration Audit (PCA) shall be performed to baseline the system and ensure all items necessary for testing are present
 - c. Voting system setup as designated by the manufacturer supplied Technical Documentation Package (TDP)
- 2. Pre-certification elections loaded:
 - a. Open all four elections in the Election Management System (EMS)
 - b. Review offices, districts, and precincts
 - c. Review ballot setups
 - d. Save election
- 3. Prepare media for election (label each one with date, election name, precinct, etc.)
- 4. Load election on each component and perform an Operational Status Check, whereby at least five (5) ballots per component are processed and results are verified against known expected results from pre-determined marking patterns.

General Election Creation Testing

- 1. Election parameters:
 - a. At least one split
 - b. Three precincts
 - c. English only
 - d. At least one ballot style to accommodate seventeen (17) year-old voters
 - e. At least one N of M contest
 - f. Write-ins
 - g. At least one referendum
- 2. Print ballots or burn media for EBM
- 3. Create test deck:
 - a. Test deck shall consist of 100 ballots including all four precincts
 - b. Hand mark ballots according to manufacturer documentation in a pre-determined voting pattern as described in the associated Election Definition to ensure expected known results
- 4. Vote ballots on each component of the system:
 - a. The tabulators shall have 100 ballots cast two times (this can be all on one unit or split among 2-3 units for a total of 200 ballots cast)
 - b. The Central Count shall have 100 ballots cast five time (this shall be split equally among all different models included for testing with a total of 500 ballots scanned)
 - c. The EBM shall have 100 ballots created and voted once on both the tabulator and Central Count to ensure they can each tabulate the ballots
- 5. Verify all results in the manufacturer EMS and also against any machine printed tapes or reports

Stress, Accuracy, and Reliability

1. Test parameters
 - a. Election: Primary Election
 - b. Marking Pattern: as stated in Election Definition
 - c. Number of pre-marked ballots: 2520 (PCOS = 5 each ballot style, Central = 25 each ballot style)
 - d. Number of ballot styles: 84
 - e. Under Test: PCOS, Central Count
2. Test execution for large General Election (PCOS)
 - a. Assemble manufacturer pre-marked ballots in test decks as determined in the Election Definition
 - b. Cast ballots on PCOS as stated in the Election Definition
 - c. Verify results against known expected results stated in the Election Definition
3. Test execution for large Primary Election (PCOS)
 - a. Assemble manufacturer pre-marked ballots in test decks as determined in the Election Definition
 - b. Cast ballots on PCOS as stated in the Election Definition
 - c. Verify results against known expected results stated in the Election Definition
4. Test execution for complex General Election (PCOS)
 - a. Assemble manufacturer pre-marked ballots in test decks as determined in the Election Definition
 - b. Cast ballots on PCOS as stated in the Election Definition
 - c. Verify results against known expected results stated in the Election Definition
5. Test execution for complex Primary Election (PCOS)
 - a. Assemble manufacturer pre-marked ballots in test decks as determined in the Election Definition
 - b. Cast ballots on PCOS as stated in the Election Definition
 - c. Verify results against known expected results stated in the Election Definition
6. Test execution for large Primary Election (Central Count)
 - a. Assemble manufacturer pre-marked ballots in test decks as determined in the Election Definition
 - b. Cast ballots on Central Count as stated in the Election Definition
 - c. Verify results against known expected results stated in the Election Definition
7. Reporting
 - a. Winners: contest reports review
 - b. Results: statement of ballots cast, statement of votes cast, statement of votes cast with precincts
8. Testing Acceptance
 - a. Accuracy in ballot counting and tabulation shall achieve 100% for all votes cast

Accessibility Testing

NC STATE BOARD OF ELECTIONS
NC ELECTIONS SYSTEMS CERTIFICATION PROGRAM

3-31

1. Test parameters
 - a. Election: Primary Election
 - b. Marking Pattern: as stated in Election Definition
 - c. Number of ADA ballots: 100
 - d. Number of ballot styles: 84
 - e. Under Test: PCOS, Central Count, ADA
2. Test execution for large Primary Election (ADA)
 - a. Vote 100 ballots on the manufacturer ADA device to create test deck as determined in the Election Definition (if multiple ADA devices supported combine for total of 100 ballots)
 - b. Ballots shall be voted using a mixture of all supported peripherals such as ATI, foot pedals, sip and puff, etc. (dependent upon supported devices a minimum of one ballot shall be voted per device supported)
 - c. Cast ballots once on PCOS as stated in the Election Definition
 - d. Cast ballots once on Central Count as stated in the Election Definition
 - e. Verify results against known expected results stated in the Election Definition
3. Reporting
 - a. Winners: contest reports review
 - b. Results: statement of ballots cast, statement of votes cast, statement of votes cast with precinct
4. Testing Acceptance
 - a. Accuracy in ballot counting and tabulation shall achieve 100% for all votes cast

Marginal Marks/Adjudication

1. Test parameters
 - a. Election: Primary Election
 - b. Marking Pattern: as stated in Election Definition
 - c. Number of ballots: 40 (20 = PCOS, 20 = Central Count folded)
 - d. Number of ballot styles: 84
 - e. Number of folded ballots: 20 (for Central Count only)
 - f. Under Test: PCOS, Central Count
2. Test execution for large Primary Election (PCOS & Central Count)
 - a. Assemble manufacturer pre-marked or hand marked ballots in test decks as determined in the Election Definition (manufacturer may pre-mark ballots below threshold if desired)
 - b. Cast ballots once on PCOS as stated in the Election Definition
 - c. Adjudicate all ballots and correct to obtain voter intent (marks should be beneath manufacturer threshold, but clearly able to identify voter intent to obtain expected result)
 - d. Verify results against known expected results stated in the Election Definition
 - e. Cast folded ballots once on Central Count as stated in the Election Definition

- f. Adjudicate all ballots and correct to obtain voter intent (marks should be beneath manufacturer threshold, but clearly able to identify voter intent to obtain expected result)
 - g. Verify results against known expected results stated in the Election Definition
 - 3. Reporting
 - a. Winners: contest reports review
 - b. Results: statement of ballots cast, statement of votes cast, statement of votes cast with precincts
 - 4. Testing Acceptance
 - a. Accuracy in ballot counting and tabulation shall achieve 100% for all votes cast

Based on the information provided by the vendor in Section 6.2 above, the State Board of Elections will produce the necessary data and information to the vendor for purposes of election and ballot coding. The data and information will be the election definitions based on the election events and contest information created by the State Board for purposes of its review of election event workflow.

3.6.3 Ballot Preparation

Using the election event contest data provided by the State Board of Elections, the vendor must produce ballot images or pdf proofs that will need to be reviewed and approved by the State Board.

3.6.4 Ballot Review and Approval

The SBE Voting Systems review team will review the ballot images or pdfs produced by the vendor for approval. If the ballot proofs meet the requirements of North Carolina ballot specifications, then the review team will *approve* the ballots for printing. The workflow of balloting proofing involves:

- Initial CBE Review
- Initial SBE Review
- Final CBE Review
- Final SBE Review

3.6.5 Test Script Generation and Test Deck Printing

If applicable, the vendor must print a test deck of each ballot style for testing in the voting equipment.

3.6.6 Election Coding and Tabulation Software

The vendor must produce election coding relevant to the election event contest information provided in order to produce equipment media. The vendor must be ready to demonstrate how the media is integrated into the vote tabulation software.

3.6.7 Election Equipment Setup

The vendor must provide a demonstration of the setting up of the voting system equipment using the media generated by the election coding data.

3.6.8 Voting Demonstration using the Test Deck

The vendor must demonstrate the voting process on the coded equipment. At a minimum, the State Board of Elections will review the following:

- How voting equipment uses or generates a paper ballot.
- How voting equipment accurately records the marks made by a voter.
- How voting equipment produces a warning for an over-vote.
- How voting equipment handles undervotes.
- How voting equipment handles write-in votes.
- How voting equipment handles blank ballots.
- How voting equipment allows a voter to review his or her choices.
- How voting equipment allows a voter to make edits to his or her vote choices.
- How voting equipment has accessibility features.
- How voting equipment accurately calculates all vote totals for each equipment or device.

3.6.9 Vote Tabulation Review

The vendor must demonstrate that the voting equipment records and tabulates votes by precinct and voting method. Vote tabulation software must accurately calculate all votes cast on each voting equipment or device. Vote tabulation software must accurately separate votes for each contest by precinct or administrative precinct. Vote tabulation software accurately separates votes for each contest by voting method.

3.6.10 Election Results Import and Review

Vendor must provide the file layout from its vote tabulation software for purposes of importing the election results into the State's Election Reporting application. The data from the vote tabulation software must be able to be imported into SEIMS's election reporting application. A successful import must include all of the precincts, administrative precincts (non-geographic reporting groups), contests and candidates that have been setup in SEIMS. The results file must include the appropriate contest, precinct, and candidate codes, as required.

3.6.11 Adjudication and Canvassing

The vendor shall demonstrate that the voting system counts for manual adjudication to allow for damaged ballots, partially counted ballots, or to determine voter intent.

3.6.12 Recount Procedures

The vendor shall demonstrate that the voting system conducts a recount of an election contest without changing the ballots cast for other contests.

3.6.13 Tabulation by Voting Precinct

The vendor shall demonstrate that the voting system permits final election results to be reported by voting precinct.

3.6.14 Integration into SEIMS

The vendor must demonstrate that the voting system is capable of feeding tabulated results as a flat file directly into the Statewide Elections Information Management System (SEIMS) securely and accepting a flat file directly from the SEIMS in order to populate all necessary election definitions. *See also* Section 3.4.2.10, which is incorporated herein.

3.7 POST-CERTIFICATION REQUIREMENTS

3.7.1 Pre-Contract Procedures

3.7.1.1 County Demonstration

The county board of elections must witness the demonstration of at least two certified systems, as long as at least two certified systems are available.

3.7.1.2 Test in One Election

Before a county may purchase a new voting system or replace an existing system, the county board of elections must test the system in at least one precinct in an election. A county board of elections may use a one-stop precinct for this purpose. A test is considered to encompass all election procedures, from election setup and ballot configuration through reporting election results by voting district. A test will not be considered complete, unless the vendor provides the testing county with all voting system equipment, relevant firmware, software, and any other required components. The county board of elections must be able to test all functionality of the system that is proposed to be purchased.

3.7.1.3 State Board of Approval to Replace

After testing a voting system, a county board of elections desiring to purchase a new voting system or replace an existing voting system must first request permission from the State Board of Elections. The proposed contract must be forwarded to the State Board of Elections to permit the agency to address the contract and ensure adequate terms and a uniform price.

3.7.1.4 Recommendation to Board of County Commissioners

If the State Board of Elections grants approval to purchase a certified voting system, the county board of elections may then make a final recommendation to its board of county commissioners.

3.7.1.5 Board of County Commissioners Approval

The Board of County Commissioners is responsible for final approval of the contract to purchase a certified voting system.

3.7.2 Post County Acquisition and Adoption**3.7.2.1 Acceptance Testing**

Any new voting system delivered to a county board of elections must undergo Acceptance Testing.

3.7.2.2 Users Manual

A hardcopy users manual shall be delivered during equipment installation and acceptance; one copy per component. One hard copy and one electronic copy of each user manual shall be sent to the election official of the county responsible for conducting elections (e.g. county director)

3.7.2.3 Training

The vendor shall provide extensive training programs on all phases of the voting system(s). The training shall provide state, county, and local election personnel with sufficient training in order to operate the system without continuous support by the Contractor. Vendors shall provide a minimum of five (5) training classes per program (e.g. voting unit, election management system, ballot creation and layout software) per ordering entity (county board of elections) for initial contract period and each renewal period exercised. Dates for training sessions will be mutually agreed upon by county customer and vendor. The State Board reserves the right to require additional or other training as it deems necessary or beneficial.

The training must include the following, without limitation, as applicable to the particular voting system:

- Training on the use of the ballot creation and layout software.
- Programming of tabulators.
- Preparation of tabulators including set up and pre-election testing.
- Election day and early voting operations from the opening to the closing of the polls.
- Printing of zero counts before the polls open.
- Processing of voters, early voting ballots, and provisional ballots.
- Use of central counting station functions.
- Troubleshooting to solve temporary problems.
- Hot points for system errors.

- Safeguards to prevent and detect tampering.
- Tabulation of results.
- Electronic transmission of election results.
- Printing, designing and reformatting election reports.
- Methods of ensuring the accuracy of precinct results.
- Use of battery backup feature(s).
- Taking a malfunctioning piece of equipment out of service.
- Full understanding of the audit procedures.
- Conducting a recount.
- Records preservation.
- How and when to place service calls.

The Vendor will assist county and local election officials (if requested) in conducting comprehensive training for election judges and clerks for their various precincts prior to the primary and general elections in the first year of use.

3.8 VOTING SYSTEMS MODIFICATION

Any modification to the hardware, firmware, or software of an existing system which has been initially certified by the State Board under the procedures described herein will act to decertify the system, unless the vendor demonstrates to the State Board's satisfaction that the modification does not and will not compromise the reliability, accuracy, user-friendliness, or secure operation and maintenance of that system. A change in version for a voting system or of a component is a modification thereof.

If the system being modified has been tested or certified to a previous VVSG version, the State Board may, at its discretion, allow testing of modifications to the prior standards or require testing of the modification to the most current standards.

Any unauthorized modifications to a certified system may result in decertification of the system by the State Board or bar a voting system vendor from receiving certification of voting systems in the future.

3.8.1 Application & Documentation

If all, or part, of any certified system is modified or changed, before the modified system or component of the system is used in any North Carolina election, the vendor must request and receive certification of the modified component or system. Vendor will complete application for certification and include summary of changes.

Update of currently approved system – A vendor must seek certification from the State Board of Elections if it updates a currently approved system. An update of a currently approved system includes any new components or software changes that have not previously been approved for use in North Carolina.

Blended – A vendor must seek certification from the State Board of Elections if it proposes to combine elements of separately approved systems into a new system.

3.8.2 Notification of Receipt of Application

The State Board of Elections will review application and determine if application is a request for a full certification review or administrative review. If the State Board of Elections determines that the change or modification merits a full examination and testing, the vendor must follow the protocols outlined in Sections 3 and 4 of this document, as applicable. The vendor will be notified if the modification or change is a limited change that requires only an administrative review.

3.9 TERMINATION OF CERTIFICATION PROCESS

The State Board of Elections reserves the right to terminate the certification process at any time if the vendor fails to proceed in a timely manner. In particular, if a period of three (3) months expires between any request for information, data, or documentation by the State Board or its evaluation agent and the manufacturer's response to that request, or if the response is not satisfactory, the State Board may terminate the certification process, at its discretion. If the certification process is terminated under this provision, the manufacturer will forfeit any fees received by the State Board. Any certification process following termination must begin from the beginning of the certification process. The certification process is also terminated when any of the following occur: The State Board issues a negative determination regarding certification, the vendor withdraws from the process; or the system fails to meet expectations in any certification or performance test required under this Program.

Appendix A:

Summary of NC Elections

Total Jurisdictions	100
Total Precincts	2,709
Methods of Voting	Absentee (By-mail) Absentee One-stop One-stop Curbside Election Day Election Day Curbside Provisional
Primary System	Semi-Closed: Voters who are registered <i>Unaffiliated</i> may choose to participate in a party's partisan primary; voters who are affiliated with a party may only participate in their registered party's primary.
Election Event Types	General Municipal Partisan Primary Municipal Primary Non-partisan Primary Bond Referenda
Contest Jurisdictions	Precinct Congressional (13) NC Senate (50) NC House (120) Prosecutorial Superior Court District Court County Commissioner Municipality Township Municipal District Ward School Fire Rescue Sanitary Sewer Water
UOCAVA Ballot Method	Mail Fax Email
Ballot Notation	A unique identifier is required on absentee ballots.

NC STATE BOARD OF ELECTIONS
NC ELECTIONS SYSTEMS CERTIFICATION PROGRAM

1

	A notation of "Provisional" on provisional ballots is allowed, but the ballot may not be uniquely tied to a voter.
Ballot Layout	"Official Ballot" Chair Signature List all Contests List all Candidates
Ballot Order	U.S. President Partisan – Federal Partisan – State Partisan – County Partisan – Local Judicial – Appellate Judicial – Superior Court Judicial – District Court Non-partisan – County Non-partisan – Local Referenda – State Referenda – County Referenda – Local
Write-ins allowed	Partisan primary contests – No Partisan General Election contest – Yes, if qualified by petition Non-partisan primary contests – No Non-partisan General Election contests – Yes Judicial contests – No
Straight-party voting	No
Coding Options	By Ballot Style By Precinct/Voting Precinct
Ballots	Official Ballots (required) Sample Ballots (required) UOCAVA Ballots (required) Provisional Ballots ("Provisional" notation permitted) Absentee By-mail Ballots (required)
Logic & Accuracy Testing	Each Election Every Ballot Styles Each machine or equipment to be used in an election Vote Tabulation Software Election Import into State's Election Management System
Election Results	Imported into Election Results Application

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 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Insurance intends to amend the rule cited as 11 NCAC 06A .0809.

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

Proposed Effective Date: June 1, 2017

Public Hearing:

Date: March 6, 2017

Time: 9:00 a.m.

Location: Jim Long Hearing Room (Room 3099) on the third floor of the Dobbs Building located at 430 N. Salisbury Street, Raleigh, NC 27603

Reason for Proposed Action: This change is being submitted to reduce the course offerings submission from 30 to 10 days. This change is based on the NAIC Best Practices and make it easier for companies to bring in Continuing Education providers to respond faster to training and educational needs (i.e. flood insurance or adjuster training leading up to or after a catastrophe).

Comments may be submitted to: Loretta Peace-Bunch, NC Department of Insurance; 1201 Mail Service Center, Raleigh, NC 27699-1201; phone (919) 807-6004; email Loretta.peace-bunch@ncdoi.gov

Comment period ends: April 17, 2017

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

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

CHAPTER 06 - AGENT SERVICES DIVISION

SUBCHAPTER 06A - AGENT SERVICES DIVISION

SECTION .0800 - CONTINUING EDUCATION

11 NCAC 06A .0809 APPROVAL OF COURSES

(a) All providers of courses specifically approved under Rule .0803 of this Section shall pay the fee prescribed in G.S. 58-33-133(b) and shall provide to the Commissioner or Administrator copies of:

- (1) program catalogs;
- (2) course outlines; and
- (3) advertising literature.

(b) All providers of courses not specifically approved under Rule .0803 of this Section shall do the following:

- (1) Any individual, school, insurance company, insurance industry association, or other organization intending to provide classes, seminars, or other forms of instruction as approved courses shall:
 - (A) apply on forms provided by the Commissioner or Administrator, located on the N.C. Department of Insurance's website at http://www.ncdoi.com/ASD/CE_Providers_For_Insurance.aspx#Forms;
 - (B) pay the fee prescribed in G.S. 58-33-133(b);
 - (C) provide outlines of the subject matter to be covered; and
 - (D) provide copies of handouts to be distributed to course participants.
- (2) All providers of supervised individual study programs shall file copies of:
 - (A) the study programs;
 - (B) the examination; and
 - (C) the Internet course security procedures.

(c) The Commissioner shall determine the number of ICECs that have been assigned to the approved course in accordance with Rule .0805 of this Section.

(d) If a course is not approved or disapproved by the Commissioner or his designee within 60 days after receipt of all required information, the course shall be deemed to be approved at the end of the 60-day period.

(e) If a course approval application is denied by the Commissioner or his designee, a written explanation of the reason for denial shall be furnished to the provider.

(f) Course approval applications shall include the following:

- (1) a statement indicating for whom the course is designed;
- (2) the course objectives;
- (3) the names and duties of all persons who will be affiliated in an official capacity with the course;
- (4) the course provider's tuition and fee refund policy;
- (5) an outline that shall include:
 - (A) a statement of whether there will be a written examination, a written report, or a certification of attendance only;
 - (B) the method of course presentation;
 - (C) a course content outline with instruction hours assigned to the major topics; and
 - (D) a schedule of dates, beginning and ending times, and places the course will be offered, along with the names of instructors for each course session, submitted at least ~~30~~ 10 days before any subsequent course offerings.
- (6) a copy of the course completion certificate;
- (7) a course rating form;
- (8) a course bibliography; and
- (9) an electronic copy of the course content and course examination for Internet courses.

(g) A provider may request that its materials be kept confidential if they are of a proprietary nature.

(h) A provider shall not cancel a course unless the provider gives written notification to all students on the roster and to the Commissioner or Administrator at least five days before the date of the course. This Paragraph does not apply to the cancellation of a course or class because of inclement weather.

(i) A provider shall submit course attendance records electronically to the Commissioner or Administrator within 15 business days after course completion.

(j) An error on the licensee's record that is caused by the provider in submitting the course attendance records shall be resolved by the provider within 15 days after the discovery of the error by the provider.

Authority G.S. 58-2-40; 58-33-130; 58-33-132; 58-33-133.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Cemetery Commission intends to amend the rule cited as 21 NCAC 07D .0101.

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

Proposed Effective Date: *June 1, 2017*

Public Hearing:

Date: *March 15, 2017*

Time: *10:00 a.m.*

Location: *1001 Navaho Dr., Suite 207, Raleigh, NC*

Reason for Proposed Action: *To ensure the Perpetual Care requirements in the statute are properly reported.*

Comments may be submitted to: *Gantt Stephens, NC Cemetery Commission, 1001 Navaho Drive, Suite 207, Raleigh, NC 27609*

Comment period ends: *April 17, 2017*

Procedure for Subjecting a Proposed Rule to Legislative

Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

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

SUBCHAPTER 07D - TRUST FUNDS

SECTION .0100 - MAINTENANCE AND CARE FUNDS (PERPETUAL CARE FUNDS)

21 NCAC 07D .0101 REPORT

(a) Each licensed cemetery shall make a report of deposits to the perpetual care fund to be completed and mailed to the office in Raleigh by the last day of each month.

(b) The form ~~to be used~~ is the Report of Grave Spaces for the Month of _____. The form provides a space ~~for~~ for the:

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 07 – CEMETERY COMMISSION

- (1) deed ~~number;~~ ~~number~~,
- (2) date of deed; ~~deed~~,
- (3) date of contract,
- (4) ~~purchaser;~~ ~~purchaser~~,
- (5) ~~sale price;~~
- (6) lot ~~number;~~ ~~number~~,
- (7) ~~section;~~ ~~section~~,
- (8) number of spaces deeded and amount due trust fund. Deed numbers shall be reported in sequential order.

(c) This form may be obtained and must be returned to:
North Carolina Cemetery Commission
1001 Navaho Drive, Suite 100
Raleigh, North Carolina 27609.

Authority G.S. 65-49.

CHAPTER 66 – VETERINARY MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Veterinary Medical Board intends to amend the rules cited as 21 NCAC 66 .0206 and .0311.

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

Proposed Effective Date: June 1, 2017

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Written request to the office of the North Carolina Veterinary Medical Board mailed to NCVMB, 1611 Jones Franklin Road, Suite 106, Raleigh, NC 27606.*

Reason for Proposed Action:

21 NCAC 66 .0206 – Add the American Association of Veterinary State Boards to the list of continuing education providers. To increase the number of continuing education hours allowed by computer. Allow veterinarians or technicians in the armed forces an extension to comply with continuing education requirements.

21 NCAC 66 .0311 – Allow a limited veterinary license to a person employed by the North Carolina Department of Agriculture and Consumer Services in a position with the North Carolina Veterinary Diagnostic Laboratory System.

Comments may be submitted to: Thomas M. Mickey, 1611 Jones Franklin Road, Suite 106, Raleigh, NC 27606; phone (919) 854-5601; fax (919) 854-5606

Comment period ends: April 17, 2017

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after

the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

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

SECTION .0200 - PRACTICE OF VETERINARY MEDICINE

21 NCAC 66 .0206 MINIMUM STANDARDS FOR CONTINUING EDUCATION

Each person holding a veterinary license, limited license, a faculty certificate, or a zoo veterinary certificate (collectively referred to herein as "veterinarian") or a veterinary technician registration issued by the Board shall comply with the standards in this ~~Rule,~~ Rule. ~~which~~ The standards shall be a condition precedent to the renewal of a license certificate or registration, respectively. ~~Except as otherwise qualified, the criteria with respect to continuing veterinary medical education of a person holding a certificate of registration as a veterinary technician shall be the same as that for a licensed veterinarian.~~ The standards are as follows:

- (1) Continuing education credit hours shall relate to veterinary medicine.
- (4)(2) A Veterinarians veterinarian shall earn 20 continuing education credit hours each calendar. for the calendar year license renewal period.
- (2)(3) A Veterinary veterinary technicians technician registered with the Board shall earn 12 credit hours every for the two calendar years. year registration renewal period.
- (3)(4) A Veterinarians veterinarian or veterinary technician may request and be granted an extension of time, not to exceed six months, to satisfy the continuing education requirement if the veterinarian or veterinary technician provides evidence of an incapacitating illness or evidence of other circumstance which constituted constitutes a severe and verifiable hardship such that to comply with the continuing education requirement would have been is or was impossible or unreasonably burdensome. If the incapacitating illness or

- circumstance is likely to result in loss of life of the veterinarian the Board shall exempt the veterinarian from the unearned portion of the continuing education requirement for that renewal period. If the evidence shows that the incapacitating illness or other circumstance is or was so severe that it is or was impractical or impossible, or unreasonably burdensome to comply with the continuing education requirement, the Board shall exempt the veterinarian or veterinary technician from any unearned portion of the continuing education requirement for that renewal period.
- (4)(5) Credit hours may be earned as follows: one hour credit for each hour of attendance at in-depth seminars courses such as seminars sponsored those provided by the American Veterinary Medical Association (AVMA), the American Animal Hospital Association (AAHA), the North Carolina Veterinary Medical Association (NCVMA), the American Association of Veterinary State Boards (AAVSB) Registry of Approved Continuing Education (RACE) and academies and schools or colleges of veterinary medicine. Only one hour credit may be acquired for attendance at a local sectional association meeting. The Board shall consider additional course offerings for approval for continuing education credit, provided that the Board is furnished sufficient information to establish that the course content and quality is substantially comparable to the course offerings by those seminars sponsored provided by the organizations or institutions listed in this Subparagraph. Approval for continuing education credit for courses other than those specified herein shall be obtained prior to attendance at a course; however, the Board may waive the requirement of approval prior to attendance at the course if circumstances beyond the veterinarian's or registrant's veterinary technician's control prevented obtaining the prior approval. Only three five hours credit per year renewal period may be acquired obtained from review of an audio or video cassette or computer based training. independent self-study courses that include such methods of content delivery as videos, DVDs, CDs, prerecorded webinars, audio conferences, and non-interactive on-line presentations or courses; provided, there is no limitation on the number of continuing education credit hours that may be obtained from live interactive on-line presentations or courses. An interactive on-line presentation or course must:
- (a) Include instant or asynchronous two way communication.
 - (b) Provide timely access to both technical personnel and professional faculty as well as interactivity among participants for the exchange of question and answers via instant messaging or a moderated teleconference.
 - (c) Document the level of participation.
- (5)(6) Each veterinarian and veterinary technician shall keep a record of for the three most recent renewal periods of the content of courses submitted to the Board for continuing education credit hours hours earned. Each year he or she shall certify on a form provided by the Board the number of credit hours earned. The Board shall mail the form to each veterinarian at the time of annual renewal.
- (6) During the calendar year in which a veterinarian graduates from veterinary college or during the calendar year in which a veterinary technician graduates from veterinary technician school, a veterinarian or veterinary technician, respectively, shall not be required to earn continuing education credits for that portion of the calendar year remaining from the date when the license or registration was issued to the end of the calendar year.
- (7) A veterinarian licensed in the year of graduation from a veterinary medical college is not required to earn continuing education credit hours to be eligible for license renewal for the next renewal period.
- (8) A veterinary technician registered in the year of graduation from a veterinary medical technology program is not required to earn continuing education credit hours to be eligible for registration renewal for the next renewal period.
- (9) A veterinarian or veterinary technician serving in the armed forces of the United States and to whom an extension of time to file a tax return is granted pursuant to G.S. 105-249.2 is granted the same extension of time to comply with the continuing education requirement of this rule.

Authority G.S. 90-185(6); 90-186(1).

SECTION .0300 - EXAMINATION AND LICENSING PROCEDURES

21 NCAC 66 .0311 LIMITED VETERINARY LICENSE

- (a) A "limited veterinary license" or "limited license" is a license as defined in G.S. 90-181(4).
- (b) Unless otherwise provided in G.S. 90, Article 11 or in a Board rule, the provisions of G.S. 90, Article 11 and this Chapter are applicable to limited veterinary licenses.
- (b)(c) The terms and restrictions of the scope or areas of practice of veterinary medicine of the holder of the limited veterinary

license shall be determined by the Board upon consideration of all criteria deemed relevant by the Board ~~in its discretion~~ to effectuate the purposes of the limited license, ~~including including; but not limited to:~~

- (1) whether the applicant is licensed to practice veterinary medicine in other states of the United States, or other countries or jurisdictions, ~~and~~ whether those licenses are ~~in good standing~~ are active, and whether there are any investigations or pending complaints against the licenses at the time of the consideration of the application; ~~and~~
- (2) the length of time the applicant has been licensed in good standing to practice veterinary medicine; ~~and~~
- (3) the reasons which the applicant offers for requesting a limited veterinary license; ~~and~~
- (4) whether facts available to the Board indicate the applicant's application has merit; and
- (5) ~~any other criteria bearing directly upon~~ information affecting the applicant's capability and need for a limited veterinary license, determined on a case-by-case basis, including the applicant's record of any criminal charges and convictions.

(d) Upon written application, the Board may issue a limited veterinary license to a person employed by the North Carolina Department of Agriculture and Consumer Services (NCDA&CS) in a position with the North Carolina Veterinary Diagnostic Laboratory System (NCVDLS), provided the applicant meets the criteria for issuance of this limited veterinary license. The following provisions are applicable to this limited veterinary license:

- (1) The criteria for eligibility for this limited veterinary license are:
 - (A) The applicant is not eligible for a license as a veterinarian under G.S. 90, Article 11 and this Chapter; and
 - (B) The applicant:
 - (i) is a graduate of a veterinary medical education program at an institution accredited by the American Veterinary Medical Association (AVMA); or
 - (ii) is a graduate of a veterinary medical education program at an institution of higher education or its equivalent, not accredited by the American Veterinary Medical Association (AVMA), that qualifies a graduate to practice veterinary medicine in the country in which the institution of higher education is located.

(C) The applicant completes an application form from the Board, which application form shall include the following:

- (i) full legal name;
- (ii) mailing address;
- (iii) telephone number;
- (iv) email address;
- (iv) social security number;
- (iv) date of birth; and
- (iv) veterinary college information and year of graduation;

(D) The applicant has achieved a passing score on the written North Carolina examination administered by the Board.

(E) There is no disciplinary proceeding or unresolved complaint pending against the applicant in any State, territory or district of the United States, or in a foreign country in which the applicant is or has been licensed or permitted to practice veterinary medicine.

(F) That any disciplinary actions taken against the applicant or his or her license by any State, territory or district of the United States, or by a Board or agency with jurisdiction in a foreign country where the applicant is licensed to practice veterinary medicine will not affect the applicant's ability and competency to practice veterinary medicine within the limitations and restrictions of the employment position with NCVDLS.

(G) The applicant submits with the application the fee for a limited veterinary license set forth in Rule .0108 of this Chapter.

(H) The applicant provides to the Board with the application a written statement from the Director of Laboratories of the NCVDLS that:

- (i) describes the duties of the applicant's prospective employment position with NCVDLS that require this limited veterinary license; and
- (ii) advises the Board that the applicant has been offered and has agreed to accept the described employment position with NCVDLS contingent upon the applicant receiving a limited veterinary license from the Board.

- (2) This limited veterinary license is subject to the fees for issuance, renewal, and reinstatement of a limited license, the continuing education requirements, and the disciplinary provisions of G.S. 90, Article 11 and this Chapter.
- (3) This limited veterinary license shall be renewed annually each calendar year.
- (4) The Board may issue a temporary permit for this limited veterinary license as follows:
 - (A) The applicant meets the criteria for eligibility for this limited veterinary license except for not achieving a passing score on the written North Carolina examination.
 - (B) The temporary permit shall expire 60 days after it is issued by the Board, but upon written request from the applicant, the Board may renew the temporary permit for 120 days in order for the applicant to achieve a passing score on the written North Carolina examination.
- (C) The temporary permit shall contain restrictions as to time, place and supervision.
- (D) The holder of a temporary permit for this limited veterinary license shall be supervised by a veterinarian licensed by the Board who is employed by the NCDA&CS in the NCVDLS.
- (5) This limited veterinary license shall be restricted in scope to the duties of the license holder's employment position with NCDA&CS and NCVDLS and shall automatically expire when the license holder's employment with NCDA&CS and NCVDLS ends.
- (6) The following sections of G.S. 90, Article 11, and of this Chapter are not applicable to the licensing requirements for this limited veterinary license: G.S. 90-187(c); G.S. 90-187.3; G.S. 90-187.4; Rules .0301(a),(b),(c),(e) and (f); .0305; .0306; and .0309.

Authority G.S. 90-185(1); 90-185(6); 90-181(4).

This Section contains information for the meeting of the Rules Review Commission January 19, 2017 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

Jeff Hyde (1st Vice Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jay Hemphill
Jeffrey A. Poley

Appointed by House

Garth Dunklin (Chair)
Stephanie Simpson (2nd Vice Chair)
Paul Powell
Jeanette Doran

COMMISSION COUNSEL

Abigail Hammond	(919)431-3076
Amber Cronk May	(919)431-3074
Amanda Reeder	(919)431-3079
Jason Thomas	(919)431-3081

RULES REVIEW COMMISSION MEETING DATES

February 16, 2017	March 16, 2017
April 20, 2017	May 18, 2017

RULES REVIEW COMMISSION MEETING**MINUTES****January 19, 2017**

The Rules Review Commission met on Thursday, January 19, 2017, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Bobby Bryan, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, and Jeff Poley.

Staff members present were Commission Counsels Amber Cronk May, Amanda Reeder, Abigail Hammond, and Jason Thomas; and Julie Brincefield and Alex Burgos.

The meeting was called to order at 10:03 a.m. with Chairman Dunklin presiding.

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

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the December 15, 2016 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS**Department of Insurance**

All rewritten rules were unanimously approved with the following exceptions:

The Commission objected to 11 NCAC 05A .0105, .0501, and .0505 based upon lack of statutory authority and failure to comply with G.S. 150B-21.9(a)(1). The Commission found that the content of the rules pertains to actions within the statutory authority of the State Fire and Rescue Commission.

11 NCAC 05A .0501 was further objected to by the Commission, as it is unclear whether the rate making authority vested in the Commissioner of Insurance by G.S. 58-40-25(4) was being implemented in Rule 05A .0501 by the State Fire Marshall. The Commission further objected to this Rule based upon lack of statutory authority and failure to comply with G.S. 150B-21.9(a)(1), as it appears as though the State Fire Marshal is determining eligibility for death benefits provided by Article 12A of Chapter 143 of the General Statutes. The statutory authority for implementation of Article 12A of Chapter 143 of the General Statutes is exclusively within the jurisdiction of the Industrial Commission.

11 NCAC 05A .0505 was further objected to by the Commission, as it is unclear if the State Fire Marshal has changed the statutory requirements set forth in G.S. 58-86-25 by using different terms and requirements than those set forth in the statute, creating unclear and ambiguous content in this Rule in violation of G.S. 150B-21.9(a)(2).

The Commission objected to 11 NCAC 05A .0201, and .0301 based upon a lack of necessity. 11 NCAC 05A .0201 recites G.S. 58-80-1. 11 NCAC 05A .0301 recites G.S. 58-84-40. G.S. 150B-19(4) prohibits an agency from adopting a rule that “repeats the content of a law.” Therefore, these Rules fail to comply with G.S. 150B-21.9(a)(3). 11 NCAC 05A .0301 was further objected to by the Commission, as it is unclear if the State Fire Marshal has changed the statutory requirements set forth in G.S. 58-84-40, creating unclear and ambiguous content in this Rule in violation of G.S. 150B-21.9(a)(2).

The Commission objected to 11 NCAC 05A .0508 based upon a lack of clarity, as it is unclear whether the rate making authority vested in the Commissioner of Insurance by G.S. 58-36-10(3) is being implemented in this Rule by the State Fire Marshall. In the alternative, if the State Fire Marshal is implementing the rate making authority set forth in G.S. 58-36-10(3), the Commission objected to this Rule for lack of statutory authority and failure to comply with G.S. 150B-21.9(a)(1).

The Commission objected to 11 NCAC 05A .0511 based upon a lack of clarity, as it is unclear whether the rate making authority vested in the Commissioner of Insurance by G.S. 58-40-25(2) is being implemented in this Rule by the State Fire Marshall. In the alternative, if the State Fire Marshal is implementing the rate making authority set forth in G.S. 58-40-25(2), the Commission objected to this Rule for lack of statutory authority and failure to comply with G.S. 150B-21.9(a)(1).

The Commission objected to 11 NCAC 05A .0603 based upon a lack of clarity, as it is unclear whether the rate making authority vested in the Commissioner of Insurance by G.S. 58-36-10(3) is being implemented in this Rule by the State Fire Marshall. In the alternative, if the State Fire Marshal is implementing the rate making authority set forth in G.S. 58-36-10(3), the Commission objected to this Rule for lack of statutory authority and failure to comply with G.S. 150B-21.9(a)(1). The Commission further objected to this Rule for imposing a penalty set forth in Paragraph (d) of the Rule that is not authorized by the cited statutory authority, and therefore lacks statutory authority and fails to comply with G.S. 150B-21.9(a)(1). The Commission further objected to this Rule based upon a lack of clarity, as the Rule references an application not identified by name and not providing any information on how to obtain the application, creating unclear and ambiguous content in this Rule in violation of G.S. 150B-21.9(a)(2). The Commission further objected to this Rule for referencing an application that is outside the rulemaking process and is not implementing a process prescribed by a rule or statute, and therefore fails to comply with G.S. 150B-21.9(a)(4).

The Commission objected to 11 NCAC 05A .0703 based upon a lack of clarity, as the Rule references an application not identified by name and not providing any information on how to obtain the application, creating unclear and ambiguous content in this Rule in violation of G.S. 150B-21.9(a)(2). The Commission further objected to this Rule for referencing an application that is outside the rulemaking process and is not implementing a process prescribed by a rule or statute, and therefore fails to comply with G.S. 150B-21.9(a)(4). The Commission further objected to this Rule for imposing a penalty set forth in Paragraph (d) of the Rule that is not authorized by the cited statutory authority, and therefore lacks statutory authority and fails to comply with G.S. 150B-21.9(a)(1).

The Commission objected to 11 NCAC 05A .0704 based upon a lack of necessity and that the language in the Rule is unclear and ambiguous. This Rule duplicates, by the use of a contradictory statement, one of the requirements set forth in Rule 11 NCAC 05A .0703. G.S. 58-87-5(a)(2) states when an applicant must match funds and 11 NCAC 05A .0703(f)(3) indicates what an applicant that must match funds shall file with the State Fire Marshal. This Rule is unclear and ambiguous in light of the requirements set forth in 11 NCAC 05A .0703(f)(3), and restates requirements set forth in 11 NCAC 05A .0703(f)(3), creating unclear and ambiguous content in this Rule in violation of G.S. 150B-21.9(a)(2). G.S. 150B-19(4) prohibits an agency from adopting a rule that “repeats the content of a...rule.” Therefore, this Rule fails to comply with G.S. 150B-21.9(a)(3).

Loretta Peace-Bunch, with the agency, addressed the Commission.

Manufactured Housing Board

11 NCAC 08 .0904 – The agency is addressing the objection from the November meeting. No action was required by the Commission.

Commissioner Poley was not present.

LOG OF FILINGS (PERMANENT RULES)

Industrial Commission

04 NCAC 10A .0108 was unanimously approved.

Commissioner Poley was not present during the vote or discussion concerning the Rule.

HHS - Division of Mental Health, Developmental Disabilities and Substance Abuse Services

All rules were unanimously approved.

Commissioner Poley was not present during the vote or discussion concerning these Rules.

Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

The Commission extended the period of review for these Rules in accordance with G.S. 150B-21.10. They did so in response to a request from the rulemaking coordinator to extend the period in order to allow the agency an opportunity to review and approve the technical changes, as well as address potential objections regarding the proposed rules.

Commissioner Poley was not present during the vote or discussion concerning these Rules.

Social Services Commission

The Commission extended the period of review for these Rules in accordance with G.S. 150B-21.10. They did so in order to allow the Social Services Commission to complete requested technical changes and submit the rewritten rules at a later meeting.

Commissioner Poley was not present during the vote or discussion concerning these Rules.

Coastal Resources Commission

15A NCAC 07H .0306 was unanimously approved.

Commissioner Poley was not present during the vote or discussion concerning the Rule.

Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors

All rules were unanimously approved.

Commissioner Poley was not present during the vote or discussion concerning these Rules.

State Human Resources Commission

The Commission extended the period of review for these Rules in accordance with G.S. 150B-21.10. They did so in response to a request from the rulemaking coordinator to extend the period in order to allow the agency additional time to make technical changes.

Prior to the review of the rules from the State Human Resources Commission, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the rules because she is a state employee.

Commissioner Poley was not present during the vote or discussion concerning these Rules.

EXISTING RULES REVIEW

Board of Agriculture

02 NCAC 48C - The Commission unanimously approved the report as submitted by the agency.

02 NCAC 48D - The Commission unanimously approved the report as submitted by the agency.

Commissioner Poley was not present during the vote or discussion concerning the reports.

Plant Conservation Board

02 NCAC 48F – The Commission unanimously approved the report as submitted by the agency.

Commissioner Poley was not present during the vote or discussion concerning the report.

Board of Agriculture

02 NCAC 52B - The Commission unanimously approved the report as submitted by the agency.
02 NCAC 52C - The Commission unanimously approved the report as submitted by the agency.
02 NCAC 52D - The Commission unanimously approved the report as submitted by the agency.
02 NCAC 52E - The Commission unanimously approved the report as submitted by the agency.
02 NCAC 52F - The Commission unanimously approved the report as submitted by the agency.
02 NCAC 52G - The Commission unanimously approved the report as submitted by the agency.
02 NCAC 52H - The Commission unanimously approved the report as submitted by the agency.
02 NCAC 52I - The Commission unanimously approved the report as submitted by the agency.

Commissioner Poley was not present during the vote or discussion concerning the reports.

Soil and Water Conservation Commission

02 NCAC 59D - The Commission unanimously approved the report as submitted by the agency.
02 NCAC 59H - The Commission unanimously approved the report as submitted by the agency.

Commissioner Poley was not present during the vote or discussion concerning the reports.

Commissioner Currin was not present during the vote or discussion concerning the reports.

Commission for Mental Health

10A NCAC 27E - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 27F - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 27H - The Commission unanimously approved the report as submitted by the agency.

Commissioner Currin was not present during the vote or discussion concerning the reports.

Soil and Water Conservation Commission

02 NCAC 59 - As reflected in the attached letter, the Commission voted to extend the readoption of these Rules from March 31, 2017 to no later than August 31, 2017 pursuant to G.S. 150B-21.3A(c)(2)g.

Board of Agriculture

02 NCAC 60 - As reflected in the attached letter, the Commission voted to extend the readoption of these Rules from March 31, 2017 to no later than December 31, 2017 pursuant to G.S. 150B-21.3A(c)(2)g.

2017 STATE MEDICAL FACILITIES PLAN

The Commission found that the Department of Health and Human Services and the State Health Coordinating Council complied with G.S. 131E-176(25) in the adoption of the 2017 Plan.

COMMISSION BUSINESS

The Commissioners discussed the complaint filed in the North Carolina Ambulatory Surgical Center Association v. North Carolina Industrial Commission.

The Commission's Bylaws require that elections be held at the January meeting.

Prior to the election and pursuant to its bylaws, the Commission voted to allow the Chairman and 1st Vice-Chairman to be eligible for reelection for a third term.

The following members were elected as officers:

Garth Dunklin was re-elected Chairman.

Jeff Hyde was re-elected 1st Vice-Chairman.

Stephanie Simpson was re-elected 2nd Vice Chair.

The meeting adjourned at 11:23 a.m.

The next regularly scheduled meeting of the Commission is Thursday, February 16th at 10:00 a.m.

There is a digital recording of the entire meeting available from the Office of Administrative Hearings /Rules Division.

Respectfully Submitted,

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:

Garth Dunklin, Chair

January 19, 2017

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Loretta Buma	NC DOI
Tina Hlabse	NCDA&CS
Jennifer Everett	DEQ
Lendall Bourdon	NC Industrial Commission
Pam Bennett	NC DHSR
Charlotte R Stewart	NC HFA
Sheena Colbrand	NC Dept Commerce - DES
Brian Pauldy	NC IC
Denise Baker	NC DMH / OCHAS
Maryanne	OSHR
Dale Dawson	SBEPHFSC
Eric Hall	"
Sharon Pittman	"
DIXIE	DSS



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

January 26, 2017

Christina L. Waggett
Department of Agriculture & Consumer Services
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 02 NCAC 59

Dear Ms. Waggett:

At its meeting on January 19, 2017, the Rules Review Commission considered the Soil and Water Conservation Commission's request to extend the schedule for the readoption of the above-referenced rules. As reflected in the attached letter dated November 19, 2015, the rules set forth in 02 NCAC 59C, 02 NCAC 59E, and 02 NCAC 59G were scheduled to be readopted by the agency no later than March 31, 2017.

Pursuant to G.S. 150B-21.3A(d)(2) and the agency's request to extend the readoption date, these rules shall be readopted by the agency no later than August 31, 2017.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in dark ink, appearing to read "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3036 fax: 919/431-3103
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An Equal Employment Opportunity Employer



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

November 19, 2015

Christina L. Waggett, Rulemaking Coordinator
Department of Agriculture & Consumer Services,
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 02 NCAC 37, 59, 60

Dear Mrs. Waggett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the November 19, 2015 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than March 31, 2017.

Please note that the rules set forth in 02 NCAC 59D and 02 NCAC 59H are not subject to this readoption date. 02 NCAC 59D and 02 NCAC 59H are scheduled for a separate periodic review date of January 2017.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

cc: Tina Hlabse

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer

11/5/2015

RRC Determination - Periodic Rule Review

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**RRC DETERMINATION
PERIODIC RULE REVIEW
July 01, 2015 through June 30, 2016
Agriculture, Board of
Total: 58**

RRC Determination: Necessary with substantive public interest

Rule	Determination	APO Review Date
02 NCAC 37 .0201	Necessary with substantive public interest	September 19, 2015
02 NCAC 37 .0203	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0101	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0201	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0202	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0205	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0302	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0401	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0402	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0603	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0604	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0605	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0701	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0702	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0804	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0805	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0901	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1003	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1004	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1005	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1006	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1007	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1008	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1009	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1010	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1011	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1012	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1013	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1014	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1015	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1016	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1017	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1018	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1019	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1020	Necessary with substantive public interest	September 19, 2015

<http://rats/Reports/RRC/periodicRuleReview.pl?Type=RRCDetermination&Determination=Necessary%20with%20substantive%20public%20interest&bCo...> 1/2

11/5/2015

RRR Determination - Periodic Rule Review

02 NCAC 60B .1021	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1022	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1023	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1024	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1025	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1026	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1027	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1028	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1029	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1030	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1031	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1032	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0101	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0102	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0201	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0202	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0203	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0204	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0205	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0206	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0207	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0208	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0209	Necessary with substantive public interest	September 19, 2015

<http://rats/Reports/RRR/periodicRuleReview.pl?Type=RRRDetermination&Determination=Necessary%20with%20substantive%20public%20interest&bCo...> 2/2

11/5/2015

RRR Determination - Periodic Rule Review

02 NCAC 60B .1021	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1022	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1023	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1024	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1025	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1026	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1027	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1028	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1029	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1030	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1031	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1032	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0101	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0102	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0201	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0202	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0203	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0204	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0205	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0206	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0207	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0208	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0209	Necessary with substantive public interest	September 19, 2015

<http://rats/Reports/RRR/periodicRuleReview.pl?Type=RRRDetermination&Determination=Necessary%20with%20substantive%20public%20interest&bCo...> 2/2

11/5/2015

RRC Determination - Periodic Rule Review

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**RRC DETERMINATION
PERIODIC RULE REVIEW
July 01, 2015 through June 30, 2016
Soil and Water Conservation Commission
Total: 12**

RRC Determination: Necessary with substantive public interest

Rule	Determination	APO Review Date
02 NCAC 59C .0303	Necessary with substantive public interest	September 19, 2015
02 NCAC 59E .0101	Necessary with substantive public interest	September 19, 2015
02 NCAC 59E .0102	Necessary with substantive public interest	September 19, 2015
02 NCAC 59E .0103	Necessary with substantive public interest	September 19, 2015
02 NCAC 59E .0104	Necessary with substantive public interest	September 19, 2015
02 NCAC 59E .0105	Necessary with substantive public interest	September 19, 2015
02 NCAC 59F .0106	Necessary with substantive public interest	September 19, 2015
02 NCAC 59G .0101	Necessary with substantive public interest	September 19, 2015
02 NCAC 59G .0102	Necessary with substantive public interest	September 19, 2015
02 NCAC 59G .0103	Necessary with substantive public interest	September 19, 2015
02 NCAC 59G .0104	Necessary with substantive public interest	September 19, 2015
02 NCAC 59G .0105	Necessary with substantive public interest	September 19, 2015

<http://rats/Reports/RRC/periodicRuleReview.pl?styleType=RRC.Determination&sDetermination=Necessary%20with%20substantive%20public%20interest&bCo...> 1/1



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

January 26, 2017

Christina L. Waggett
Department of Agriculture & Consumer Services
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 02 NCAC 60

Dear Ms. Waggett:

At its meeting on January 19, 2017, the Rules Review Commission considered the Board of Agriculture's request to extend the schedule for the readoption of the above-referenced rules. As reflected in the attached letter dated November 19, 2015, the rules set forth in 02 NCAC 60 were scheduled to be readopted by the agency no later than March 31, 2017.

Pursuant to G.S. 150B-21.3A(d)(2) and the agency's request to extend the readoption date, these rules shall be readopted by the agency no later than December 31, 2017.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

November 19, 2015

Christina L. Waggett, Rulemaking Coordinator
Department of Agriculture & Consumer Services,
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 02 NCAC 37, 59, 60

Dear Mrs. Waggett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the November 19, 2015 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than March 31, 2017.

Please note that the rules set forth in 02 NCAC 59D and 02 NCAC 59H are not subject to this readoption date. 02 NCAC 59D and 02 NCAC 59H are scheduled for a separate periodic review date of January 2017.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

cc: Tina Hlabse

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

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fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer

11/5/2015

RRC Determination - Periodic Rule Review

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**RRC DETERMINATION
PERIODIC RULE REVIEW
July 01, 2015 through June 30, 2016
Agriculture, Board of
Total: 58**

RRC Determination: Necessary with substantive public interest

Rule	Determination	APO Review Date
02 NCAC 37 .0201	Necessary with substantive public interest	September 19, 2015
02 NCAC 37 .0203	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0101	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0201	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0202	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0205	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0302	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0401	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0402	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0603	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0604	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0605	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0701	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0702	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0804	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0805	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .0901	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1003	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1004	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1005	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1006	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1007	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1008	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1009	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1010	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1011	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1012	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1013	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1014	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1015	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1016	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1017	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1018	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1019	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1020	Necessary with substantive public interest	September 19, 2015

<http://rats.Reports/RRC/periodicRuleReview.pl?Type=RRCdetermination&Determination=Necessary%20with%20substantive%20public%20interest&bCo...> 1/2

11/5/2015

RRR Determination - Periodic Rule Review

02 NCAC 60B .1021	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1022	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1023	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1024	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1025	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1026	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1027	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1028	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1029	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1030	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1031	Necessary with substantive public interest	September 19, 2015
02 NCAC 60B .1032	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0101	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0102	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0201	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0202	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0203	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0204	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0205	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0206	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0207	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0208	Necessary with substantive public interest	September 19, 2015
02 NCAC 60C .0209	Necessary with substantive public interest	September 19, 2015

<http://rats/Reports/RRR/periodicRuleReview.pl?Type=RRR&Determination=Necessary%20with%20substantive%20public%20interest&bCo...> 2/2

11/5/2015

RRC Determination - Periodic Rule Review

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**RRC DETERMINATION
PERIODIC RULE REVIEW
July 01, 2015 through June 30, 2016
Soil and Water Conservation Commission
Total: 12**

RRC Determination: Necessary with substantive public interest

Rule	Determination	APO Review Date
02 NCAC 59C .0303	Necessary with substantive public interest	September 19, 2015
02 NCAC 59E .0101	Necessary with substantive public interest	September 19, 2015
02 NCAC 59E .0102	Necessary with substantive public interest	September 19, 2015
02 NCAC 59E .0103	Necessary with substantive public interest	September 19, 2015
02 NCAC 59E .0104	Necessary with substantive public interest	September 19, 2015
02 NCAC 59E .0105	Necessary with substantive public interest	September 19, 2015
02 NCAC 59F .0106	Necessary with substantive public interest	September 19, 2015
02 NCAC 59G .0101	Necessary with substantive public interest	September 19, 2015
02 NCAC 59G .0102	Necessary with substantive public interest	September 19, 2015
02 NCAC 59G .0103	Necessary with substantive public interest	September 19, 2015
02 NCAC 59G .0104	Necessary with substantive public interest	September 19, 2015
02 NCAC 59G .0105	Necessary with substantive public interest	September 19, 2015

<http://rats/Reports/RRC/periodicRuleReview.pl?styleType=RRCDetermination&sDetermination=Necessary%20with%20substantive%20public%20interest&bCo...> 1/1

LIST OF APPROVED PERMANENT RULES
January 19, 2017 Meeting

INDUSTRIAL COMMISSION

Electronic Filings with the Commission; How to File 04 NCAC 10A .0108

HHS - MENTAL HEALTH, DIVISION OF

Scope 10A NCAC 26C .0701
County Request to Disengage from a Local Management Entit... 10A NCAC 26C .0702
Secretary Response to County Requests to Disengage from a... 10A NCAC 26C .0703

INSURANCE, DEPARTMENT OF

Definitions 11 NCAC 05A .0101
Comprehensive Emergency Management Plan 11 NCAC 05A .0202
Certification of Eligibility 11 NCAC 05A .0302
Administration of Firefighters' Relief Fund 11 NCAC 05A .0303
Establishment of Fire Department 11 NCAC 05A .0503
Primary Personnel 11 NCAC 05A .0504
Alarm and Communications 11 NCAC 05A .0506
Records and Documents 11 NCAC 05A .0507
Inspection 11 NCAC 05A .0510
Standards and Policies 11 NCAC 05A .0512
Definitions 11 NCAC 05A .0601
Fire District Rating Certification 11 NCAC 05A .0602
Other Grant Criteria 11 NCAC 05A .0604
Definitions 11 NCAC 05A .0701
ALS Certifications 11 NCAC 05A .0702
Other Grant Criteria 11 NCAC 05A .0705

COASTAL RESOURCES COMMISSION

General Use Standards for Ocean Hazard Areas 15A NCAC 07H .0306

PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, BOARD OF EXAMINERS OF

State and Local Government Plumbing or Heating Technician 21 NCAC 50 .0312
Responsibilities of State and Local Government Technician... 21 NCAC 50 .0313
Multiple Licenses 21 NCAC 50 .0405
Supervision in Absence of Inspection 21 NCAC 50 .0414
Fees for Copies of Records and Returned Checks 21 NCAC 50 .1104

RRC Determination
Periodic Rule Review
January 19, 2017
Necessary with substantive public interest

Agriculture, Board of 02 NCAC 52B .0204 02 NCAC 52B .0207

RULES REVIEW COMMISSION

02 NCAC 52B .0213
02 NCAC 52C .0701
02 NCAC 52E .0402
02 NCAC 52G .0303
**Soil and Water Conservation
Commission**
02 NCAC 59D .0101
02 NCAC 59D .0102

02 NCAC 59D .0103
02 NCAC 59D .0104
02 NCAC 59D .0105
02 NCAC 59D .0106
02 NCAC 59D .0107
02 NCAC 59D .0108
02 NCAC 59H .0101
02 NCAC 59H .0102

02 NCAC 59H .0103
02 NCAC 59H .0104
02 NCAC 59H .0105
02 NCAC 59H .0106
02 NCAC 59H .0107
02 NCAC 59H .0108

**RRC Determination
Periodic Rule Review
January 19, 2017
Necessary without substantive public interest**

Agriculture, Board of

02 NCAC 48C .0101
02 NCAC 48C .0102
02 NCAC 48C .0103
02 NCAC 48C .0104
02 NCAC 48C .0105
02 NCAC 48C .0106
02 NCAC 48C .0107
02 NCAC 48C .0108
02 NCAC 48C .0109
02 NCAC 48C .0110
02 NCAC 48C .0112
02 NCAC 48C .0113
02 NCAC 48C .0115
02 NCAC 48C .0116
02 NCAC 48C .0117
02 NCAC 48C .0118
02 NCAC 48C .0119
02 NCAC 48C .0120
02 NCAC 48C .0121
02 NCAC 48C .0122
02 NCAC 48C .0123
02 NCAC 48C .0124
02 NCAC 48C .0125
02 NCAC 48C .0126
02 NCAC 48C .0127
02 NCAC 48C .0128
02 NCAC 48C .0129
02 NCAC 48D .0101
02 NCAC 48D .0102
02 NCAC 48D .0103
02 NCAC 48D .0104
02 NCAC 48D .0105
02 NCAC 48D .0106

Plant Conservation Board

02 NCAC 48F .0301
02 NCAC 48F .0305
02 NCAC 48F .0306
02 NCAC 48F .0401
02 NCAC 48F .0402
02 NCAC 48F .0405
02 NCAC 48F .0407
02 NCAC 48F .0409
02 NCAC 48F .0410

02 NCAC 48F .0411
02 NCAC 48F .0412
02 NCAC 48F .0413

Agriculture, Board of

02 NCAC 52B .0101
02 NCAC 52B .0102
02 NCAC 52B .0201
02 NCAC 52B .0202
02 NCAC 52B .0203
02 NCAC 52B .0205
02 NCAC 52B .0206
02 NCAC 52B .0209
02 NCAC 52B .0212
02 NCAC 52B .0301
02 NCAC 52B .0302
02 NCAC 52B .0303
02 NCAC 52B .0304
02 NCAC 52B .0401
02 NCAC 52B .0405
02 NCAC 52B .0406
02 NCAC 52B .0407
02 NCAC 52B .0408
02 NCAC 52B .0409
02 NCAC 52B .0410
02 NCAC 52B .0411
02 NCAC 52B .0412
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02 NCAC 52B .0502
02 NCAC 52B .0503
02 NCAC 52B .0601
02 NCAC 52B .0602
02 NCAC 52B .0603
02 NCAC 52B .0604
02 NCAC 52B .0605
02 NCAC 52B .0606
02 NCAC 52B .0607
02 NCAC 52B .0608
02 NCAC 52C .0101
02 NCAC 52C .0102
02 NCAC 52C .0103
02 NCAC 52C .0104
02 NCAC 52C .0105
02 NCAC 52C .0201
02 NCAC 52C .0202

02 NCAC 52C .0301
02 NCAC 52C .0302
02 NCAC 52C .0401
02 NCAC 52C .0402
02 NCAC 52C .0501
02 NCAC 52C .0502
02 NCAC 52C .0601
02 NCAC 52C .0602
02 NCAC 52C .0603
02 NCAC 52D .0101
02 NCAC 52D .0102
02 NCAC 52E .0101
02 NCAC 52E .0103
02 NCAC 52E .0201
02 NCAC 52E .0202
02 NCAC 52E .0203
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02 NCAC 52E .0206
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02 NCAC 52E .0208
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02 NCAC 52E .0210
02 NCAC 52E .0211
02 NCAC 52E .0212
02 NCAC 52E .0301
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02 NCAC 52E .0306
02 NCAC 52E .0401
02 NCAC 52F .0101
02 NCAC 52F .0102
02 NCAC 52F .0103
02 NCAC 52F .0104
02 NCAC 52F .0105
02 NCAC 52F .0106
02 NCAC 52G .0101
02 NCAC 52G .0102
02 NCAC 52G .0201
02 NCAC 52G .0202
02 NCAC 52G .0203
02 NCAC 52G .0301
02 NCAC 52G .0302

02 NCAC 52G .0401	10A NCAC 27E .0105	10A NCAC 27H .0301
02 NCAC 52G .0402	10A NCAC 27E .0106	10A NCAC 27H .0302
02 NCAC 52G .0403	10A NCAC 27E .0107	10A NCAC 27H .0303
02 NCAC 52H .0101	10A NCAC 27E .0108	10A NCAC 27H .0304
02 NCAC 52H .0102	10A NCAC 27E .0201	10A NCAC 27H .0305
02 NCAC 52H .0103	10A NCAC 27F .0101	10A NCAC 27H .0306
02 NCAC 52H .0104	10A NCAC 27F .0102	10A NCAC 27H .0307
02 NCAC 52H .0105	10A NCAC 27F .0103	10A NCAC 27H .0308
02 NCAC 52H .0106	10A NCAC 27F .0104	10A NCAC 27H .0309
02 NCAC 52H .0107	10A NCAC 27F .0105	10A NCAC 27H .0401
02 NCAC 52H .0108	10A NCAC 27H .0101	10A NCAC 27H .0402
02 NCAC 52H .0109	10A NCAC 27H .0102	10A NCAC 27H .0403
02 NCAC 52I .0101	10A NCAC 27H .0103	10A NCAC 27H .0404
02 NCAC 52I .0102	10A NCAC 27H .0104	10A NCAC 27H .0405
02 NCAC 52I .0103	10A NCAC 27H .0105	10A NCAC 27H .0406
02 NCAC 52I .0104	10A NCAC 27H .0106	10A NCAC 27H .0407
02 NCAC 52I .0105	10A NCAC 27H .0107	10A NCAC 27H .0601
02 NCAC 52I .0106	10A NCAC 27H .0108	10A NCAC 27H .0602
02 NCAC 52I .0107	10A NCAC 27H .0201	10A NCAC 27H .0603
02 NCAC 52I .0108	10A NCAC 27H .0202	10A NCAC 27H .0604
Mental Health, Commission for	10A NCAC 27H .0203	10A NCAC 27H .0605
10A NCAC 27E .0101	10A NCAC 27H .0204	10A NCAC 27H .0606
10A NCAC 27E .0102	10A NCAC 27H .0205	10A NCAC 27H .0607
10A NCAC 27E .0103	10A NCAC 27H .0206	
10A NCAC 27E .0104	10A NCAC 27H .0207	

**RRC Determination
Periodic Rule Review
January 19, 2017
Unnecessary**

Plant Conservation Board

02 NCAC 48F .0501
02 NCAC 48F .0502
02 NCAC 48F .0503
02 NCAC 48F .0504
02 NCAC 48F .0505
02 NCAC 48F .0506
02 NCAC 48F .0507
02 NCAC 48F .0508

02 NCAC 48F .0509

02 NCAC 48F .0510
02 NCAC 48F .0511
02 NCAC 48F .0512
02 NCAC 48F .0513
02 NCAC 48F .0514
02 NCAC 48F .0515

Agriculture, Board of

02 NCAC 52E .0205

Mental Health, Commission for

10A NCAC 27H .0501
10A NCAC 27H .0502
10A NCAC 27H .0503
10A NCAC 27H .0504
10A NCAC 27H .0505
10A NCAC 27H .0506

CONTESTED CASE DECISIONS

This Section contains an index to all recent Administrative Law Judge contested cases decisions which are filed under North Carolina's Administrative Procedure Act. The full text of 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

Melissa Owens Lassiter
Don Overby
J. Randall May
David Sutton

A. B. Elkins II
Selina Brooks
J. Randolph Ward
Stacey Bawtinheimer

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u>			
NC Alcoholic Beverage Control Commission v. Osei Enterprises LLC T/A Osei Food and Beverage	15 ABC 08455	06/02/16	31:05 NCR 426
NC Alcoholic Beverage Control Commission v. Brewers LLC T/A Two Doors Down	16 ABC 0290	06/01/16	
NC Alcoholic Beverage Control Commission v. Dasab LLC T/A D and S Kwik Stop	16 ABC 01759	05/25/16	
NC Alcoholic Beverage Control Commission v. Cristina Miron Bello and Victor Giles Bello T/A La Poblanita	16 ABC 02166	05/25/16	
NC Alcoholic Beverage Control Commission v. Aarray Inc. T/A Jacks Tap	16 ABC 02702	06/01/16	
NC Alcoholic Beverage Control Commission v. B2 Inc. T/A Cadillac Ranch the Other Side	16 ABC 02703	06/02/16	
Club Hush Management Company LLC v. Alcoholic Beverage Control Commission	16 ABC 03310	11/14/16	31:15 NCR 1625
NC Alcoholic Beverage Control Commission v. Los Amigos of Shelby Inc. T/A Los Amigos of Shelby	16 ABC 03354	06/21/16	
NC Alcoholic Beverage Control Commission v. Susan Michelle Cloninger T/A Dallas Pub	16 ABC 07133	10/11/16	
<u>BOARD OF SOCIAL WORK</u>			
William B. Shannon v. NC Social Work Certification and Licensure Board	16 BSW 09247	10/17/16	
<u>DEPARTMENT OF PUBLIC SAFETY</u>			
Thomas Anthony Tyger v. Victim Services Janice Carmichael	15 CPS 08771	05/17/16	
George Dudley v. NC Department of Public Safety, Victim Services	16 CPS 01651	05/05/16	
Otero Lee Ingram v. NC Crime Victims Comp Commission	16 CPS 01656	06/09/16	
Sara Neomi Giron v. Department of Public Safety, Victim Services	16 CPS 07583	09/14/16	
Harvey Lewis v. Victim Crime NC	16 CPS 07832	09/16/16	
Lila McCallum v. Victims Compensation Commission	16 CPS 07897	09/14/16	
<u>DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES</u>			
For the Love of Dogs, Max and wife Della Fitz-Gerald v. Department of Agriculture and Consumer Services	15 DAG 09366	09/22/16	31:11 NCR 1147
<u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u>			
Agape Homes Inc. v. Department of Health and Human Services	12 DHR 11808	05/26/16	
Agape Homes Inc. v. Department of Health and Human Services	13 DHR 12398	05/26/16	
Harrold Associates II DDS Nickie Rogerson v. DHHS, DMA	15 DHR 01234	04/29/16	
WP-Beulaville Health Holdings LLC v. DHHS, Division of Health Service Regulation, Adult Care Licensure Section	15 DHR 02422	06/29/16	31:05 NCR 440

CONTESTED CASE DECISIONS

Lavonnie Simmons v. DHHS, Division of Health Service Regulations	15 DHR 05374	10/31/16
Shanata Crawford, A Fulfilled Vision Home Health v. DHHS	15 DHR 06085	10/12/16
East Cove Psychiatric Services PC, Dr. Joanna Wolicki-Shannon, and Dr. Walter Shannon v. DHHS, Division of Medical Assistance and its Agent, Eastpointe	15 DHR 06260	09/20/16
Jessie Buie, George Buie v. DHHS, DMA	15 DHR 07341	05/10/16
Christopher H Brown v. DHHS, Division of Medical Assistance	15 DHR 08051	08/11/16
Ashley Cartwright Sr. v. Department of Health and Human Services	15 DHR 08222	06/15/16
New Hope Adult Care, Frank N. Fisher v. Office of Health and Human Services	15 DHR 08262	06/22/16
Sandra McKinney Page v. DHHS, Division of Health Service Regulation	15 DHR 09286	05/25/16
Elaine B. Shelton, Positive Beginnings v. Division of Child Development and Early Education	15 DHR 09330	08/19/16
Jeannie Ann Kine v. Department of Health and Human Services	16 DHR 00795	05/05/16
Raiford Testone Jr. v. DHHS, Division of Public Health	16 DHR 01493	09/19/16
A Brighter Day Group Home Shannon Hairston v. Department of Health and Human Services	16 DHR 01857	05/05/16
A Brighter Day Group Home Shannon Hairston v. Department of Health and Human Services	16 DHR 01859	05/05/16
HAL-097-014 Wilkes County Adult Care v. DHHS, Division of Health Service Regulation	16 DHR 02121	07/06/16
Sagia Grocery Inc d/b/a Red Sea Grocery III v. DHHS, Division of Public Health	16 DHR 02701	05/17/16
Susan H. Logan v. DHHS, Division of Medical Assistance	16 DHR 03011	06/02/16
Kathleen B. McGuire v. Department of Health Service Regulation MH Licensure Section	16 DHR 03014	05/13/16
Kathleen B. McGuire v. Department of Health Service Regulation MH Licensure Section	16 DHR 03015	05/13/16
Kaitlin Marie Skiba v. DHHS, Division of Health Service Regulation	16 DHR 03101	06/02/16
Derrell Octavis Moore v. Office of Administrative Hearings-Healthcare Personnel Registry	16 DHR 03127	09/14/16
Monique Brown Miller v. DHHS, Division of Health Service Regulation	16 DHR 03131	06/22/16
HAL-082-018 Clinton Health Holdings LLC, Clinton House v. DHHS, Division of Health Service Regulation	16 DHR 03203	08/04/16
Robin Braswell Ingram v. Nurse Aide Registry	16 DHR 03214	06/10/16
Sholonda Randolph v. NCDHHS	16 DHR 03217	07/13/16
Trina C. Sherrill v. DHHS, Division of Health Service Regulation	16 DHR 03315	06/02/16
William A. Perry v. DHHS, Division of Medical Assistance	16 DHR 03351	10/13/16
Jacqueline Tate v. DHHS, Division of Medical Assistance	16 DHR 03576	09/01/16
Dixon Social Interactive Services Inc. v. Trillium Health Resources	16 DHR 03398	07/07/16
Joanne Marie Cain v. Health Care Personnel Registry	16 DHR 03404	06/02/16
Crandell's Enterprises inc. v. DHHS, Division of Medical Assistance	16 DHR 03408	08/16/16
Darrin L Roach v. Medicaid Estate Recovery Unit	16 DHR 03411	07/22/16
Mariana I Arellanes Owner Liberty Tienda de la Comunidad v. DHHS, Division of Public Health	16 DHR 03475	07/06/16
Joan Rennea Thomas v. DHHS, Division of Health Service Regulation	16 DHR 03502	06/10/16
Nathasia Yvonne Lofton v. DHHS, Division of Health Service Regulation	16 DHR 03503	06/10/16
Cassandra Swaringen Christian v. DHHS	16 DHR 03580	08/30/16
Patricia Glover v. Department of Health and Human Services	16 DHR 03895	06/29/16
Quashawn A. Washington v. NCDHHS, Division of Medical Assistance	16 DHR 03899	06/28/16
Clinton Health holdings, LLC HAL-082-018 v. DHHS, Division of Health Service Regulation	16 DHR 04276	07/07/16
Dora Zepeda Pastrana v. DHHS	16 DHR 04393	09/06/16
Tina M Maye, Tina Mayes DCC v. NC Division of Child Development	16 DHR 04471	07/26/16
Easter Seals United Cerebral Palsy Group Home Park NC 28711 Frank Dinkoski v. Laurel Park Group Home Division of Health Service Regulation	16 DHR 04522	06/29/16
Valarie Neely v. Department of Health and Human Services	16 DHR 04533	06/21/16
Deborah Karin Dunham v. NCDHHS	16 DHR 04728	08/19/16
Home Health Connection Inc. v. DHHS, Division of Medical Assistance	16 DHR 04750	07/01/16
Christanna M. Griffin-Cradle v. DHHS Program Integrity	16 DHR 04918	07/20/16
Brian M. Cradle v. DHHS Program Integrity	16 DHR 04920	07/20/16
Gaffiney Health Services v. DHHS	16 DHR 05209	08/09/16
Justina Muniz v. DHHS, Division of Health Service Regulation	16 DHR 05469	08/23/16
Karen Brooks v. Child Development and Early Education	16 DHR 05579	09/02/16
Ablecare Corporation MHL-034-234 v. Division of Health Service Regulation	16 DHR 05580	09/16/16
Emilia Ahlimba Akuetevi v. DHHS, Division of health Service Regulation	16 DHR 05743	08/29/16
Gladys L. Walden v. Halifax County Public Health System	16 DHR 05748	08/16/16
Tina McNeil v. Division of Child Development and Early Education Department of Health and Human Services	16 DHR 05796	08/30/16
Foster's BBQ and Grill v. DHHS	16 DHR 05799	08/15/16
Untaiger Mechelle Hayes v. DHHS, Division of Health Service Regulation	16 DHR 05873	07/28/16
James Edward Johnson Jr. v. DHHS	16 DHR 06066	10/05/16
Jason Bradley Riopelle v. CPS (Department of Social Services) Foster Care	16 DHR 06130	08/08/16
Jason Bradley Riopelle v. Cabarrus County Child Protective Services (Foster Care)	16 DHR 06135	08/08/16
Joanie Bell Johnson v. Gaston County DSS	16 DHR 06266	08/04/16

Breck Bullock v. DHHS	16 DHR 06281	08/17/16	
Katina Armstrong v. DHHS	16 DHR 06331	09/02/16	
Cynthia Yvette McAllister	16 DHR 06332	09/02/16	
Deja Buckner v. DHHS, Division of Health Service Regulation	16 DHR 06614	08/17/16	
Jonathan Michael Cook v. DHHS, Division of Health Service Regulation	16 DHR 06843	09/27/16	
Ella Jane Stanley v. DHHS	16 DHR 06940	09/30/16	
Jacqueline Freeman v. DHHS SVCS NC Administrative Office of the Courts	16 DHR 07003	08/23/16	
Sarah Brown v. Division of Child Development and Early Education, DHHS	16 DHR 07067	08/30/16	
Cut Doodles Learning Academy Shalita Powell v. Division of Child Development and Early Education DHHS	16 DHR 07280	09/01/16	
Christian L. McMahan v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	16 DHR 07408	10/13/16	
Sarah Morgan v. DHHS, Division of Health Service Regulation	16 DHR 07409	09/08/16	
Charles H. Daniel v. Murdoch Developmental Center	16 DHR 07443	08/22/16	
Improving Life Inc MHL-026-941 v. DHHS, Division of Health Service Regulation	16 DHR 07665	10/18/16	
Jahiara Messick v. DHHS, Division of Health Service Regulation	16 DHR 07703	10/24/16	
Asheville Plastic Surgery James M McDonough v. DHHS	16 DHR 07822	10/31/16	
Charlene A Turner d/b/a Delijah Family Child Care v. Division of Child Development and Early Education, Department of Health and Human Services	16 DHR 07823	10/03/16	
Alan Johnson v. DHHS, Division of Health Service Regulation	16 DHR 07824	09/09/16	
Melinda Rummage Poole v. DHHS, Division of Health Service Regulation	16 DHR 07833	10/06/16	
<u>DEPARTMENT OF JUSTICE</u>			
Inah Latonna York v. Sheriffs' Education and Training Standards Commission	15 DOJ 01537	05/16/16	
Lisa Mae Parsons v. Sheriffs' Education and Training Standards Commission	15 DOJ 01540	04/06/16	
Robert Walter Clark v. Criminal Justice Education and Training Standards Commission	15 DOJ 02027	07/22/16	31:08 NCR 779
Crystal Sparks King v. Criminal Justice Education and Training Standards Commission	15 DOJ 02533	10/08/15	
Michael Eugene Rich v. NC Sheriffs' Education and Training Standards Commission	15 DOJ 06163	05/12/16	
Robert Lee Benton v. NC Criminal Justice Education and Training Standards Commission	15 DOJ 07342	04/22/16	
James Philip Davenport v. Sheriffs' Education and Training Standards Commission	15 DOJ 07442	04/19/16	31:01 NCR 67
John Gordon Kaiser v. Criminal Justice Education and Training Standards Commission	15 DOJ 07703	11/28/16	31:15 NCR 1617
Devon Locklear v. NC Criminal Justice Education and Training Standards Commission	15 DOJ 07704	08/19/16	
John James Klaver Jr. v. Criminal Justice Education and Training Standards Commission	15 DOJ 07775	04/06/16	
Timothy Todd Stroupe v. Criminal Justice Education and Training Standards Commission	15 DOJ 08233	06/14/16	31:06 NCR 510
Donald Wayne Shaw v. NC Sheriffs' Education and Training Standards Commission	15 DOJ 08606	06/22/16	31:05 NCR 449
Kevin Michael Weber v. Sheriffs' Education and Training Standards Commission	15 DOJ 08610	04/22/16	31:01 NCR 71
Carson Dean Berry v. Sheriffs' Education and Training Standards Commission	15 DOJ 09661	05/16/16	
Tyree Shawn Stafford v. NC Private Protective Services Board	16 DOJ 00234	05/17/16	
Porsha Denise Patterson v. NC Private Protective Services Board	16 DOJ 00235	05/17/16	
Charlotte Worriax Mendoza v. NC Private Protective Services Board	16 DOJ 00236	08/04/16	
James Edward Alexander v. NC Private Protective Services Board	16 DOJ 03470	06/15/16	
Samuel Porter Lapsley v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 00376	07/29/16	
William Thomas Warren v. NC Criminal Justice Education and Training Standards Commission	16 DOJ 00471	08/25/16	
Thomas Robbins v. NC Department of Justice, Company Police Program	16 DOJ 01197	09/09/16	31:11 NCR 1164
David Shannon Dellinger v. NC Criminal Justice Education and Training Standards Commission	16 DOJ 01719	06/29/16	
Barbara Ann Brown v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 02140	07/19/16	
John Sheetz, Jr. v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 02142	07/20/16	
Bobby Hoskins v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 02145	07/20/16	
Christopher Scott Shepherd v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 02147	08/30/16	
Brandon Wayne King v. NC Private Protective Services Board	16 DOJ 02704	08/23/16	
Austin Raye Hines v. NC Criminal Justice Education and Training Standards Commission	16 DOJ 02998	08/18/16	
Teresa Ann English v. NC Alarm Systems Licensing Board	16 DOJ 03352	06/21/16	
Aaron Arlington Rowe v. NC Private Protective Services Board	16 DOJ 03472	06/21/16	
Brittany Nicole Manley v. Criminal Justice Education and Training Standards Commission	16 DOJ 03584	09/30/16	
Joshua Reid Lomax v. NC Private Protective Services Board	16 DOJ 03788	06/21/16	
Paulette Wells v. NC Private Protective Services Board	16 DOJ 03789	06/28/16	
Arthur Joseph Piwcio v. NC Alarm Systems Licensing Board	16 DOJ 03834	08/04/16	
S3 Special Police and Security v. Company Police Program	16 DOJ 04739	07/18/16	
William Douglas Hyleman Jr. v. Sheriffs' Education and Training Standards Commission	16 DOJ 04757	11/04/16	31:15 NCR 1635
Andre Jama McMillan v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 04759	09/08/16	
Safe and Secure Worldwide Special Police Lance A Jones Sr. v. NC Department of Justice Criminal Justice Standards Division Company Police Program	16 DOJ 06549	09/20/16	

CONTESTED CASE DECISIONS

Sherry D Brown-Easter v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 07830	10/05/16	
<u>DEPARTMENT OF LABOR</u>			
Meriweather Home Nursing, Fran Meriweather v. Department of Labor	15 DOL 05002	08/10/16	
<u>DEPARTMENT OF TRANSPORTATION</u>			
Thomas R. Baggett v. Department of Transportation	15 DOT 09852	05/20/16	
Jacob Phillip Burns v. Department of Transportation	16 DOT 05306	07/20/16	
<u>DIVISION OF EMPLOYMENT SECURITY</u>			
Barrington Boyd v. Travis Morgan, Aaron Parks, and Town of Pineville	16 DSC 04634	11/09/16	31:15 NCR 1641
<u>DEPARTMENT OF STATE TREASURER</u>			
In the Matter of the Board of Trustees of Craven Community College v. Department of the State Treasurer and The Board of Trustees of the Teachers and State Employees Retirement System	16 DST 00053	05/11/16	
Gayle Johnson McLean v. Department of State Treasurer Retirement Systems Division	16 DST 01106	05/16/16	
Johnston County Schools v. Retirement Systems Division Department of State Treasurer	16 DST 03782	09/16/16	
Johnston County Schools v. Retirement Systems Division Department of State Treasurer	16 DST 04761	09/16/16	
Union County Public Schools v. Retirement Systems Division Department of State Treasurer	16 DST 05962	08/25/16	
Union County Public Schools v. Retirement Systems Division Department of State Treasurer	16 DST 06222	08/25/16	
<u>ETHICS COMMISSION</u>			
Anne N. Fischer v. NC Ethics Commission	16 EBD 07486	09/23/16	
<u>STATE BOARD OF EDUCATION</u>			
Crystal A. Kelly v. Department of Public Instruction	15 EDC 01828	05/11/16	31:03 NCR 206
Laura Kerrigan v. Department of Public Instruction	15 EDC 03061	09/21/15	31:01 NCR 76
Charlotte Classical School Inc v. NC State Board of Education	15 EDC 05755	05/24/16	31:03 NCR 215
TPS Publishing Inc. v. State Board of Education	15 EDC 06344	04/29/16	31:01 NCR 89
Crossroads Charter High School v. Department of Public Instruction/NC State Board of Education	16 EDC 01392	06/13/16	31:07 NCR 711
Lenore McDuffie v. David Phillips, Cumberland County School	16 EDC 06553	08/05/16	
<u>DEPARTMENT OF ENVIRONMENTAL QUALITY</u>			
Environmentalee, Chatham Citizens Against Coal Ash Dump, and Blue Ridge Environmental Defense League Inc v. Department of Environment and Natural Resources, Division of Waste Management, and Division of Energy, Mineral, and Land Resources and Green Meadow LLC and Charah Inc.	15 EHR 04772	05/05/16	31:03 NCR 223
Paul and Elizabeth Winchell v. NC Department of Environmental Quality, Division of Coastal Management and Elizabeth Lentendre	15 EHR 05826	07/29/16	32:07 NCR 692
Stephen Owens and Jillanne G. Badawi v. Department of Environmental Quality, division of Evergy Mineral and Land Resources and Weyerhaeuser Company and Pasquotank County	15 EHR 07012	10/04/16	31:14 NCR 1442
Ronald Sheffield v. NCDMF	16 EHR 02397	10/05/16	31:14 NCR 1453
<u>BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS</u>			
Raymond Clifton Parker v. NC Board of Examiners for Engineers and Surveyors	15 ELS 04349	06/27/16	
<u>DEPARTMENT OF INSURANCE</u>			
Angela B. O'Connell v. NC Teachers' and State Employees' Comprehensive Major Medical Plan AKA The State Health Plan	14 INS 08876	06/22/16	31:05 NCR 415
Department of Insurance v. Andre Day	15 INS 07291	04/26/16	31:01 NCR 104
Robert Wayne Williams Jr. v. NC State Health Plan for Teachers and State Employees	16 INS 02135	09/09/16	31:11 NCR 1179
Lynda F. Hodge v. NC State Health Plan	16 INS 03204	05/20/16	
Gina Boccetti v. NC Department of State Treasurer/NC State Health Plan	16 INS 04108	09/21/16	31:11 NCR 1187
<u>MISCELLANEOUS</u>			
Daryl Zenon Bodan v. Judge David W. Aycock et al Catawba County-District 25B	16 MIS 04110	06/06/16	

CONTESTED CASE DECISIONS

Department of Insurance, Agent Services Division v. Harold T. Little	16 INS 04230	11/22/16	31:15 NCR 1646
Arthur Donald Darby Jr. v. Hoke County Sheriff's Office Adam Rodriquez	16 MIS 05226	08/10/16	
<u>OFFICE OF STATE HUMAN RESOURCES (formerly OFFICE OF STATE PERSONNEL)</u>			
Brandon Lee Faison Sr. v. Eastern Correctional/NCDPS	15 OSP 07975	06/28/16	31:05 NCR 454
Jacqueline Renee Crocker v. Transylvania County Department of Social Services Director Tracy Jones	15 OSP 08687	05/16/16	31:03 NCR 256
Barbara Hayden v. Department of Public Safety	15 OSP 08973	10/14/16	
Kathern Infinger Wherry v. Forsyth County Department of Social Services	15 OSP 10025	06/09/16	
Gloria R. Watlington v. Department of Social Services	16 OSP 00297	07/05/16	
Judith Smith v. Gaston County Government/Gaston County Department of Human Services	16 OSP 00844	06/22/16	
Emily Williams v. Anson County Board of Social Services Ross Streater Chairman	16 OSP 01283	05/19/16	
Cithara Patra v. NCDOR	16 OSP 01808	05/13/16	
Lara Weaver v. Department of Health and Human Services	16 OSP 03540	06/02/16	
Mark Stout v. Department of Public Safety	16 OSP 03894	10/11/16	31:14 NCR 1471
George Wes Little Jr. v. Department of Transportation	16 OSP 05294	09/06/16	31:11 NCR 1194
Julia Nichols v. University of North Carolina at Chapel Hill	16 OSP 06127	07/25/16	
Ivry Cheeks v. Delilah Jackson and Washington County Schools Board of Education WCS Board of Education WCS Board Members (Ruffin Gill, Carlos Riddick, Fred Norman, Jerry Phelps and Lois Clark)	16 OSP 06271	08/16/16	
Lenton C. Brown v. NC Department of Public Safety an agency of the State of NC and Division of Adult Correction and Juvenile Justice, a subunit contained within the NC	16 OSP 06600	09/02/16	
Yajaira Fernandez Ariza v. Pitt County Public Health	16 OSP 06636	09/28/16	
Marcia Hutchison v. NC Department of Justice	16 OSP 06725	08/30/16	
Kimberly H Boling v. Rowan Cabarrus Community College	16 OSP 07702	08/25/16	
Bessie M Toliver-Evans v. Winston Salem State University Camille Kluttz-Leach	16 OSP 07885	09/23/16	
<u>DEPARTMENT OF REVENUE</u>			
Deidre L. McBride v. Department of Revenue	15 REV 06334	09/13/16	
Lynn Baldwin Jr. and Vera J. Summerville v. Department of Revenue	15 REV 07692	09/09/16	31:13 NCR 1363
Olethia Davis v. Department of Revenue	16 REV 02286	05/10/16	
Asail Aiken-Odom v. NC Department of Revenue	16 REV 02326	06/29/16	
Jim Vang v. Department of Revenue	16 REV 03114	05/26/16	
John Elton Russell v. NC Department of Revenue	16 REV 03208	07/19/16	
Kiana Harris v. Department of Revenue	16 REV 03304	07/06/16	
Olukayode J. Alabi Kathryn U. Alabi v. Department of Revenue	16 REV 03305	08/02/16	
Janna Marie Stanley v. Department of Revenue	16 REV 03318	05/27/16	
Silas Edward Gray and Dino Laurie Gray v. NC Department of Revenue	16 REV 03410	06/10/16	
Willie A. Westbrook-Bey v. Department of Revenue	16 REV 04104	06/10/16	
Karla Guerra (K&E Drywall, LLC v. Department of Revenue, Edward S. Koonce	16 REV 05177	08/31/16	
Robert Joel Coppedge v. NC Department of Revenue	16 REV 05797	08/19/16	
<u>OFFICE OF THE SECRETARY OF STATE</u>			
Angel L. Simpson v. Department of the Secretary of State	15 SOS 07239	04/21/16	
Michael A Placa v. Department of the Secretary of State	15 SOS 09334	08/10/16	
Jonathan's Outreach Network Services inc. (JONS) v. Department of the Secretary of State Charitable Solicitation Licensing	16 SOS 02557	09/29/16	
Donna Stroud v. Department of the Secretary of State NC Notary Enforcement Section	16 SOS 03468	08/23/16	
Tiera Antwon Wactor v. NC Department of the Secretary of State	16 SOS 04106	08/11/16	
Tamra Rocha Bradshaw v. Department of the Secretary of State (Notary)	16 SOS 04164	07/01/16	
American Dream Crafter, LLC. d/b/a Boosterbeds v. Charitable Solicitation Licensing Division of NC Department of Secretary of State	16 SOS 06821	08/17/16	
Thomas Davis Defending Dreams Foundation Inc. v. Department of the Secretary of State	16 SOS 08042	09/26/16	
<u>UNIVERSITY OF NORTH CAROLINA HOSPITALS</u>			
Marc Alperin v. University of North Carolina Hospitals	15 UNC 08353	06/28/16	
Tiffany R. Brown v. University of North Carolina Hospitals	16 UNC 05615	08/03/16	