

NORTH CAROLINA REGISTER

VOLUME 32 • ISSUE 07 • Pages 628 – 719

October 2, 2017

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Contact List for Rulemaking Questions or Concerns

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

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

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NORTH CAROLINA REGISTER
 Publication Schedule for January 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.



State of North Carolina

ROY COOPER
GOVERNOR

August 31, 2017

EXECUTIVE ORDER NO. 18

ABNORMAL MARKET DISRUPTION

WHEREAS, the uninterrupted supply of fuel oil, diesel oil, and gasoline is essential for the health, safety or economic well-being of persons or property in North Carolina, and any interruption in the delivery of those fuels threatens the public welfare; and

WHEREAS, as a result of Hurricane Harvey, oil refineries in Texas and Louisiana have suffered a temporary interruption of production which has caused a disruption in the delivery of petroleum products, including gasoline to North Carolina; and

WHEREAS, the President of the United States has issued a Major Disaster Declaration under the Robert T. Stafford Act for portions of the State of Texas (FEMA-4332-DR-TX) on August 25, 2017 and an Emergency Declaration for the State of Louisiana (FEMA-3382-EM-LA) on August 28, 2017; and

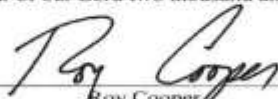
WHEREAS, I have determined that an abnormal market disruption has occurred to the distribution or sale of goods and services in North Carolina pursuant to N.C.G.S. § 75-38.

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

- (1) Pursuant to N.C.G.S. § 75-38, an abnormal market disruption exists because of the temporary shutdown of refineries that serve North Carolina because of Hurricane Harvey.
- (2) The execution of this Executive Order triggers the enforcement of N.C.G.S. § 75-38, "Prohibit excessive pricing during states of disaster, states of emergency, or abnormal market disruptions."
- (3) The investigation and enforcement of N.C.G.S. § 75-38 is hereby vested in the Attorney General of North Carolina.

This Executive Order is effective immediately and shall remain in effect for forty-five (45) days.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 31st day of August in the year of our Lord two thousand and seventeen.



Roy Cooper
Governor

ATTEST:



Rodney S. Maddox
Chief Deputy Secretary of State





State of North Carolina

ROY COOPER

GOVERNOR

August 31, 2017

EXECUTIVE ORDER NO. 19

**DECLARATION OF STATE OF EMERGENCY IN ORDER TO SUSPEND MOTOR
VEHICLE REGULATIONS TO ENSURE ADEQUATE FUEL SUPPLIES IN THE
STATE OF NORTH CAROLINA AND TO SUPPORT RELIEF EFFORTS FOR
HURRICANE HARVEY**

WHEREAS, Hurricane Harvey made landfall on the coast of Texas on August 25, 2017 and the remnants of the storm also impacted Louisiana; and

WHEREAS, the storm continues to cause major catastrophic impacts to areas in both Texas and Louisiana; and

WHEREAS, many states and organizations will be supporting emergency relief efforts to Texas and Louisiana and those vehicles transporting emergency relief supplies and services will be traveling through North Carolina; and

WHEREAS, due to the impact of Hurricane Harvey there has been a temporary shutdown of refineries in Texas and Louisiana, which has caused a disruption in the delivery of petroleum products, including gasoline; and

WHEREAS, vehicles carrying gasoline and other petroleum products need to be moved to communities on the highways of North Carolina; and

WHEREAS, the supply of gasoline and petroleum products to citizens is essential to their safety and well-being; and

WHEREAS, I have found that there is an abnormal market disruption in North Carolina, as a result of the impact of the temporary shutdown of refineries due to Hurricane Harvey, in Executive Order number 18; and

WHEREAS, due to the finding of an abnormal market disruption and the catastrophic damages in Texas and Louisiana, I have determined that it is necessary to declare that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6), 166A-19.3(19) and 166A-19.20 exists in the State of North Carolina for the purpose of temporarily waiving certain motor vehicle regulations for vehicles that transport gasoline and petroleum products. This emergency declaration is also necessary to provide coverage to vehicles providing emergency relief and services to Texas and Louisiana due to Hurricane Harvey. The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) is the State of North Carolina; and

WHEREAS, under the provisions of N.C.G.S. § 166A-19.30(b)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, under the provisions of N.C.G.S. § 166A-19.30(b)(4) the Governor, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a State agency which restricts the immediate relief of human suffering; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles carrying gasoline and petroleum products and carrying emergency relief supplies or services for Hurricane Harvey must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116, 20-118 and 20-119. I have further found that citizens will likely suffer further widespread damage within the meaning of N.C.G.S. § 166A-19.3(3) and N.C.G.S. § 166A-19.21(b); and

WHEREAS, 49 C.F.R. § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 C.F.R. Parts 390-399 for up to thirty (30) days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. § 166A-19.70, the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels, food, water, medical supplies, and for vehicles used in the restoration of utility services; and

WHEREAS, on August 25, 2017, the Federal Motor Carrier Safety Administration issued a regional emergency declaration, pursuant to 49 C.F.R. 390.23 to provide for regulatory relief for commercial motor vehicle operations under 49 C.F.R. Parts 390-399, while providing direct assistance supporting emergency relief efforts transporting supplies, equipment and persons into or from the States of Texas and Louisiana or providing other assistance in the form of emergency services during the emergency resulting from Hurricane Harvey in the States of Texas and Louisiana.

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

Section 1.

The North Carolina Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers prescribed by the Department of Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

The North Carolina Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116, 20-118 and 20-119, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, and 105-449.49 for the vehicles transporting gasoline and other petroleum products to areas within North Carolina and for vehicles transporting emergency relief or services for Hurricane Harvey to Texas and Louisiana.

Section 3.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.

c. When a vehicle and vehicle combination exceeds 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having a yellow banner on the front and rear measuring a total length of 7 feet by 18 inches bearing the legend "Oversized Load" in 10 inch black letters 1.5 inches wide and red flags measuring 18 inches square to be displayed on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding 8 feet 6 inches in width.

Section 4.

Vehicles referenced under Sections 2 and 3 shall be exempt from the following registration requirements:

a. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.

b. The registration requirements under N.C.G.S. § 20-382.1 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.

c. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 5.

The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

Section 6.

The waiver of regulations under Title 49 of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) does not apply to the Commercial Driver's License and Insurance Requirements. This waiver shall be in effect for thirty (30) days or the duration of the emergency, whichever is less.

Section 7.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1 through 6 of this Executive Order in a manner, which will implement these provisions without endangering motorists in North Carolina.

Section 8.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with transporting gasoline, other petroleum products or for emergency relief efforts associated with Hurricane Harvey.

Section 9.

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 10.

The gasoline truck tank and vapor system requirements of 15A N.C.A.C. 02D.0932(c) shall be waived during this time if Method 27 is followed.

Section 11.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 31st day of August in the year of our Lord two thousand-seventeen.



Roy Cooper
Governor

ATTEST:



Rodney G. Maddox
Chief Deputy Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

September 6, 2017

EXECUTIVE ORDER NO. 20

DECLARATION OF A STATE OF EMERGENCY

BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

Section 1.

I hereby declare, pursuant to N.C.G.S. § 166A-19.20, that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(19) exists in the State of North Carolina due to the approach and potential impacts from Hurricane Irma.

The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and N.C.G.S. 166A-19.20(b) is the State of North Carolina.

Section 2.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan.

Section 3.

I delegate to Erik A. Hooks, the Secretary of Public Safety, or his designee, all power and authority granted to me and required of me by Article 1A of Chapter 166A of the General Statutes for the purpose of implementing the State's Emergency Operations Plan and deploying the State Emergency Response Team to take the appropriate actions as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4.

Further, Secretary Hooks, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G. S. § 143B-602.

Section 5.

I further direct Secretary Hooks or his designee, to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

Section 6.

I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this declaration.

Section 7.

This declaration does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 8.

Pursuant to N.C.G.S. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C.G.S. § 75-37 and 75-38 in the declared emergency area.

Section 9.

This declaration is effective at 8:00 a.m. on September 7, 2017 and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 6th day of September in the year of our Lord two thousand and seventeen.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 6th day of September in the year of our Lord two thousand and seventeen.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

September 6, 2017

EXECUTIVE ORDER NO. 21

TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO ENSURE RESTORATION OF UTILITY SERVICES AND TRANSPORTING ESSENTIALS

WHEREAS, due to the approach and potential impacts of Hurricane Irma, vehicles bearing equipment and supplies for utility restoration and debris removal, carrying essentials such as food and medicine, transporting livestock and poultry and feed for livestock and poultry or crops ready to be harvested need to be moved on the highways of North Carolina; and

WHEREAS, Hurricane Irma may have major impacts to the states of Florida, Georgia and South Carolina; and

WHEREAS, many states and organizations will be supporting emergency relief efforts to Florida, Georgia and South Carolina and those vehicles transporting those emergency relief supplies and services will be traveling through North Carolina; and

WHEREAS, I have declared that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6), 166A-19.3(19) and 166A-19.20 exists due Hurricane Irma and its likely impact in this State; and

WHEREAS, the uninterrupted supply of electricity, fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum gas, food, water, livestock and poultry feed, and medical supplies to residential and commercial establishments is essential before, during and after Hurricane Irma impacts North Carolina and any interruption in the delivery of those commodities threatens the public welfare; and

WHEREAS, the prompt restoration of utility services to citizens is essential to their safety and well-being; and

WHEREAS, under the provisions of N.C.G.S. § 166A-19.30(b)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing equipment and supplies for utility restoration, carrying essentials and for debris removal from the impacts of Hurricane Irma must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. §§ 105-449.45, 105-449.47, and 105-449.49, and the size and weight requirements of N.C.G.S. §§ 20-116, 20-118 and 20-119. I have further found that citizens in this North Carolina, Florida, Georgia and South Carolina may suffer

losses and will likely suffer further widespread damage within the meaning of N.C.G.S. § 166A-19.3(3) and N.C.G.S. § 166A-19.21(b); and

WHEREAS, pursuant to N.C.G.S. § 166A-19.70(g) on the recommendation of the Commissioner of Agriculture, upon a finding that there is an imminent threat of severe economic loss of livestock, poultry or crops ready to be harvested, the Governor shall direct the Department of Public Safety to temporarily suspend weighing those vehicles used to transport livestock, poultry or crops; and

WHEREAS, 49 C.F.R. § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 C.F.R. Parts 390-399 for up to thirty (30) days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. § 166A-19.70, the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels, food, water, medical supplies, feed for livestock and poultry, transporting livestock, poultry, or crops ready to be harvested and for vehicles used in the restoration of utility services.

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

Section 1.

The North Carolina Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers prescribed by the Department of Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

The North Carolina Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116, 20-118 and 20-119, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1 and 20-382, and certain registration and filing requirements and penalties arising under N.C.G.S. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles transporting equipment and supplies for the restoration of utility services, carrying essentials and for equipment for any debris removal. The Department of Public Safety shall temporarily suspend weighing pursuant to N.C.G.S. § 20-118.1 vehicles used to transport livestock, poultry or crops ready to be harvested in the emergency area.

Section 3.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- c. When a vehicle and vehicle combination exceeds 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having a yellow banner on the front and rear measuring a total length of 7 feet by 18 inches bearing the legend "Oversized Load" in 10 inch black letters 1.5 inches wide and red flags measuring 18 inches square to be displayed on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding 8 feet 6 inches in width.

Section 4.

Vehicles referenced under Sections 2 and 3 shall be exempt from the following registration requirements:

- a. The requirement to obtain a temporary trip permit and pay the associated \$50.00 fee listed in N.C.G.S. § 105-449.49 is waived for the vehicles described above. No filing of a quarterly fuel tax return is required because the exemption in N.C.G.S. § 105-449.45(b)(1) is recognized.
- b. The registration requirements under N.C.G.S. § 20-382.1 concerning intrastate and N.C.G.S. § 20-382 concerning interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.
- c. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 5.

The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

Section 6.

The waiver of regulations under Title 49 of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) does not apply to the Commercial Driver's License and Insurance Requirements. This waiver shall be in effect for thirty (30) days or the duration of the emergency, whichever is less.

Section 7.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1 through 6 of this Executive Order in a manner which will implement these provisions without endangering motorists in North Carolina.

Section 8.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for bearing equipment and supplies for utility restoration, debris removal, carrying essentials in commerce, carrying feed for livestock and poultry, or transporting livestock and poultry, or crops ready to be harvested in the State of North Carolina.

Section 9.

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 10.

Pursuant to N.C.G.S. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C.G.S. § 75-37 and 75-38 in the declared emergency area.

Section 11.

This Executive Order is effective at 8:00 a.m. on September 7, 2017 and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

PUBLIC NOTICE
STATE OF NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION

The Division of Energy, Mineral, and Land Resources (DEMLR) invites public comment on, or objections to, the permitting actions listed below. Persons wishing to comment or object may submit written comments to the address below by the due dates indicated. All comments received prior to the dates will be considered in the final determinations regarding permit issuance. Public comments may result in changes to the proposed permitting actions. All comments should reference the specific permitting actions listed below and the permit number. **DEMLR intends to re-issue the following NPDES industrial discharge General Permits for a short duration permit cycle without changes.**

NCG030000 for Metal Fabrication: to be re-issued for one year with no changes, proposed reissuance date – 11/16/2017; public comment period ends 11/01/2017.

NCG060000 for Food and Kindred: to be re-issued for one year with no changes, proposed reissuance date – 11/16/2017; public comment period ends 11/01/2017.

NCG080000 for Transit and Transportation (Vehicle Maintenance Areas): to be re-issued for one year with no changes, proposed reissuance date – 11/16/2017; public comment period ends 11/01/2017.

NCG090000 for Manufacture of Paints, Varnishes, Lacquers, Enamels, and Allied Products: to be re-issued for one year with no changes, proposed reissuance date – 11/16/2017; public comment period ends 11/01/2017.

NCG100000 for Used Motor Vehicles Parts and Automobile Wrecking for Scrap: to be re-issued for one year with no changes, proposed reissuance date – 11/16/2017; public comment period ends 11/01/2017.

NCG120000 for Landfills: to be re-issued for one year with no changes, proposed reissuance date – 11/16/2017; public comment period ends 11/01/2017.

The current General Permits may be viewed 45 days in advance of the scheduled re-issuance dates noted above at: <https://deq.nc.gov/about/divisions/energy-mineral-land-resources/events>

Please direct comments or objections to:
Stormwater Permitting Program
NC Division of Energy, Mineral, and Land Resources
1612 Mail Service Center
Raleigh, NC 27699-1612
Telephone Number: (919) 807-6375
rick.riddle@ncdenr.gov

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 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g, that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10F .0303, .0304, .0306, .0313, .0314, .0318, .0319, .0326, .0328, .0331, .0334, .0337, .0348, .0351, .0352, .0354, .0355, .0356, .0361, .0363, .0364, .0365, .0368, .0370, .0374 and readopt with substantive changes the rules cited as 15A NCAC 10F .0321 and .0330.

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

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

Proposed Effective Date: *October 1, 2018*

Public Hearing:

Date: *October 24, 2017*

Time: *10:00 a.m.*

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

Reason for Proposed Action: *All 10F Rules were reviewed as part of the 2016 Periodic Review process. The 27 rules currently proposed for readoption or amendment are being updated to incorporate the following changes:*

- *updating language and terms for consistency;*
- *clarifying no-wake zone boundaries by including coordinates;*
- *name changes;*
- *removing the maintenance of markers;*
- *removing the word "motorboat", as the statutory definition of "vessel" includes motorboats; and*
- *including appropriate federal approval for placement of markers.*

Comments may be submitted to: *Carrie Ruhlman, Rule-making Coordinator, 1701 Mail Service Center, Raleigh, NC 27699-1701; email regulations@ncwildlife.org*

Comment period ends: *December 1, 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**
- No fiscal note required by G.S. 150B-21.3A(d)(2)**

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

Note: The underlined text in italics is pending approval by the Rules Review Commission.

15A NCAC 10F .0303 BEAUFORT COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Beaufort County:

- (1) *that the* portion of Broad Creek south of a line from a point on the east shore at 35.49472 N, 76.95693 W to a point on the west shore at 35.49476 N, 76.96028 W and north of a line from a point on the east shore at 35.48485 N, 76.95178 W to a point on the west shore at 35.48495 N, 76.95619 W;
- (2) *that the* portion of Blounts Creek south of a line 100 yards north of the Blounts Creek Boating Access Area, from a point on the east shore at 35.40846 N, 76.96091 W to a point on the west shore at 35.40834 N, 76.96355 W, and north of a line 100 yards south of Cotton Patch Landing, from a point on the east shore at 35.40211 N,

- 76.96573 W to a point on the west shore at 35.40231 N, 76.96702 W;
- (3) the waters of Battalina Creek, within the territorial limits of the Town of Belhaven;
 - (4) the navigable portion of Nevil Creek extending upstream from its mouth at the Pamlico River;
 - (5) ~~that~~ the portion of Blounts Creek north of a line 35 yards south-southeast of the Mouth of the Creek Bridge from a point on the east shore at 35.43333 N, 76.96985 W to a point on the west shore at 35.43267 N, 76.97196 W and south of a line 350 yards north-northeast of the Mouth of the Creek Bridge from a point on the east shore at 35.43553 N, 76.96962 W to a point on the west shore at ~~35.43645 N~~ 35.43679 N, ~~76.96998 W~~ 76.97011 W; and
 - (6) ~~that~~ the portion of Tranters Creek east of a line from a point on the north shore at 35.56961 N, 77.09159 W to a point on the south shore at 35.56888 N, 77.09118 W and north of a line from a point on the east shore at 35.56714 N, 77.08941 W to a point on the west shore at 35.56689 N, 77.09029 W.
 - (7) the waters of Little Creek beginning at a line near its mouth from a point on the east shore at 35.41917 N, 76.97102 W to a point on the west shore at 35.41900 N, 76.96940 W.

(b) Speed Limit. ~~It is unlawful to operate a vessel at greater than no-wake speed in the regulated areas described in Paragraph (a) of this Rule. No person shall operate any vessel at greater than no-wake speed within any of the regulated areas identified in Paragraph (a) of this Rule.~~

(c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Beaufort County and the City Council of the City of Washington are the designated ~~as suitable~~ agencies for placement ~~and maintenance~~ of the markers implementing this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0304 BLADEN COUNTY

(a) Regulated Area. This Rule applies to the waters of White Lake in Bladen County.

(b) ~~Restricted Area.~~ The portion waters of White Lake between the shoreline and the offshore marker poles which were installed in the lake by the State Parks Division of the Department of Environment, Health, and Natural Resources is designated as the restricted area.

~~(b)(c)~~ Swimming. Swimming, except skin diving, shall not be permitted outside of the restricted area.

~~(c)(d)~~ Skiing. No skiing is permitted in the restricted area, except to leave from within or return into that area. All vessels pulling skiers shall leave from within the restricted area on a course perpendicular to the nearest shoreline. Upon returning, all vessels pulling skiers shall reduce to no-wake speed when the skiers have entered the restricted area.

~~(d)(e)~~ Speed Limit. Within the restricted area all vessels, except those engaged in skiing as regulated by Paragraph ~~(e)(d)~~ of this Rule, shall be operated at a no-wake speed. Operation of any

vessel on a course parallel to the shoreline is prohibited in the restricted area.

~~(e)(f)~~ Placement and Maintenance of Markers. The Board of Commissioners of Bladen County, the Town of White Lake, and the State Parks Division are the designated ~~as suitable~~ agencies for placement and maintenance of ~~adequate marking to implement the regulations listed above.~~ the markers implementing this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0306 CAROLINA BEACH

(a) Regulated Area. This Rule applies to those waters ~~known as of the~~ Carolina Beach Yacht Basin ~~bounded on the north by a line perpendicular to Florida Avenue and intersecting marker number "2" in the channel of the yacht basin, and on the south by the terminus of the yacht basin at the Carolina Beach Municipal Marina.~~ beginning at a line from a point on the east shore at 34.05720 N, 77.88896 W to a point on the west shore at 34.05984 N, 77.89163 W, south to its end at the Carolina Beach Municipal Marina.

(b) Speed Limit. It is unlawful to operate any ~~motorboat or~~ vessel at a speed greater than no-wake speed in the regulated area described in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Carolina Beach Town Council is the designated ~~as suitable~~ agency for placement ~~and maintenance~~ of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

15A NCAC 10F .0313 HYDE COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Hyde County:

- (1) Swan Quarter Canal near the Town of Swan Quarter beginning at its entrance at point at 35.40215 N, 76.34033 W in Swanquarter Bay and extending the entire length of the canal;
- (2) Carawan Canal near the Town of Swan Quarter beginning at its entrance at a point at 35.39758 N, 76.33312 W in Swanquarter Bay and extending the entire length of the canal;
- (3) The waters within 50 yards of all public boat launching areas providing access to Pamlico Sound;
- (4) ~~That~~ The portion of Far Creek in the Town of Engelhard shore to shore, beginning at a point at ~~35.51061 N~~ 35.51051 N, ~~75.98699 W~~ 75.98693 W and ending at the Roper Lane bridge at 35.50869 N, 76.00229 W;
- (5) Fodrey Canal. ~~That~~ The portion of Fodrey Canal shore to shore, beginning in Swanquarter Bay at a point at 35.40345 N, 76.34175 W and extending inland 300 yards ending at a point at 35.40469 N, 76.33944 W;
- (6) Silver Lake in Ocracoke, harbor-wide;
- (7) The entire waters of the Hydeland Canal beginning at the Hydeland Canal Access Area ~~(35.42131 N, 76.20915 W)~~ at 35.42131 N, 76.20915 W and ending at the end of SR 1122

~~(35.40873 N, 76.21185 W); at 35.40873 N, 76.21185 W;~~

- (8) The waters of Gray Ditch beginning ~~near~~ north of the SR 1110 bridge at the intersection of Great Ditch Road and Nebraska Road, at 35.45926 N, 76.07527 W and ending at 35.45027 N, 76.06862 W; and
- (9) ~~A~~ The portion of Main Canal Outfall Canal, otherwise known as Main Canal off of Mattamuskeet Lake in the vicinity of Mattamuskeet Lodge, beginning in East Main Canal at 35.45226 N, 76.17359 W, and extending to a point in West Main Canal at 35.45174 N, 76.18132 W, and that portion of Central Canal beginning at its intersection with Main Outfall Canal and extending northward to 35.45687 N, 76.1751 W.

(b) Speed Limit. No person shall operate a ~~motorboat or~~ vessel at greater than no-wake speed on the regulated areas described in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Hyde County is the designated ~~a suitable~~ agency for placement ~~and maintenance~~ of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0314 NEW HANOVER COUNTY

(a) Regulated Areas. This Rule applies to the following waters in New Hanover County:

- (1) ~~that~~ The area bounded on the north by the US 74-76 Bridge crossing the Intracoastal Waterway, on the south by a line shore to shore intersecting Intracoastal Waterway marker number 127, on the west by the shore of Wrightsville Sound, and on the east by a line perpendicular to US Highway 74-76 and intersecting marker number 25 in Motts Channel;
- (2) ~~that~~ The area of Motts Channel between marker number 25 at the Intracoastal Waterway on the west and marker number 16 at the entrance from Banks Channel on the east;
- (3) ~~that~~ The area bounded on the west by the US 76 Bridge crossing Bradley Creek, on the north and south by the banks of Bradley Creek, on the east by a line from a point on the southwest shore at ~~34.21293 N~~ 34.21298 N, 77.83171 W 77.83173 W, to a point on the northeast shore at ~~34.21437 N~~ 34.21446 N, 77.83061 W, 77.83063 W;
- (4) Lee's Cut from its western intersection with the Intracoastal Waterway at 34.21979 N, 77.80965 W, to its eastern intersection with Banks Channel at 34.21906 N, 77.79645 W;
- (5) ~~the~~ The unnamed channel lying between the shore west of Bahama Drive in the Town of

Wrightsville Beach and an unnamed island located approximately 500 feet northeast of the US 74 bridge over Banks Channel; and

- (6) ~~those~~ The waters of the Northeast Cape Fear River between the US Hwy. 117 bridge and the railroad trestle 60 yards east of the Castle Hayne Boating Access Area.
- (b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within any of the regulated areas described in Paragraph (a) of this Rule.
- (c) Placement of Markers. The Board of Commissioners of New Hanover County is the designated ~~a suitable~~ agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0318 WARREN COUNTY

(a) Regulated Area. This Rule applies only to that portion of Lake Gaston which lies within the boundaries of Warren County.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of ~~Gaston Lake~~ Lake Gaston in Warren County.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a ~~lawfully~~ marked mooring area on the waters of ~~Gaston Lake~~ Lake Gaston in Warren County.

(d) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any ~~lawfully~~ marked public swimming area on the waters of ~~Gaston Lake~~ Lake Gaston in Warren County.

(e) No person shall operate a vessel at greater than no-wake speed:

- (1) within those waters of the Camp Willow Run Canoe/Sail Cove, beginning at a point shore to shore from a point on the southwest shore at 36.49355 N, 77.91795 W, to a point on the north shore at 36.49530 N 36.49534 N, 77.91552 W 77.91508 W.
- (2) within the waters of the cove on Hubquarter Creek, shore to shore beginning at a line from a point on the northeast shore at 36.50030 N, 78.00474 W 78.00474 W to a point on the southwest shore at 36.49951 N 36.49947 N, 78.00549 W, 78.00553 W.

(f) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Warren County is the designated ~~a suitable~~ agency for placement ~~and maintenance~~ of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers. ~~With regard to marking Gaston Lake, all of the supplementary standards listed in Rule .0301(g) of this Section shall apply.~~

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0319 WASHINGTON COUNTY

(a) Regulated Areas. This Rule applies to the following waters and portions of waters:

- (1) ~~that the~~ portion of Mackey's ~~Creek~~ Creek, otherwise known as Kendrick Creek, ~~which lies shore to shore, between from~~ a point at 35.93253 N, 76.60875 W ~~150 yards upstream from the center of SR 1321, where said road dead ends on the eastern shore of the creek, to a point at 35.93401 N, 76.60637 W; and 150 yards downstream from the center of SR 1321.~~
- (2) ~~that the~~ portion of Conaby Creek ~~beginning at shore to shore, from a point east of the N.C. 45 Bridge at 35.89613 N, 76.70603 W, and continuing eastward 1000 feet east northeast to a point at 35.89757 N, 76.70413 W.~~

(b) Speed Limit. No person shall operate any ~~motorboat or~~ vessel at greater than no-wake speed in the regulated area described in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Washington County is the designated ~~a suitable~~ agency for placement ~~and maintenance~~ of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0321 PENDER COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Pender County:

- (1) ~~the~~ The canal adjoining Old Point ~~Development; Development from the canal entrance at the Intracoastal Waterway at a point at 34.36618 N, 77.66395 W;~~
- (2) ~~the~~ The First Finger Canal in New Topsail Beach; Beach from its intersection with Banks Channel at a point at 34.35187 N, 77.65111 W;
- (3) ~~in the~~ Town of Topsail Beach, those waters on the eastern side of Banks Channel within 100 yards of the shoreline beginning 155 yards west of Bush's Marina, and extending northeast ending 75 yards from the shoreline perpendicular to Haywood Avenue;
- (4) ~~those~~ The waters of the Northeast Cape Fear River between the U.S. Highway 117 bridge and the railroad trestle 60 yards east of the Castle Hayne Boating Access Area; and
- (5) ~~in the~~ Town of Surf City, the waters of the channel in Topsail Sound known as Deep Creek, from its mouth at a point at 34.43199 N, 77.54795 W to its end west of Goldsboro Avenue.

(b) Speed Limit. No person shall operate any ~~motorboat or~~ vessel at greater than no-wake speed within the regulated areas described in Paragraph (a) of this Rule.

(c) Placement of Markers. The Board of Commissioners of Pender County ~~with respect to~~ for the regulated areas designated in Subparagraphs (1), (2) and (4) of Paragraph (a) of this Rule, the

Board of Commissioners of the Town of Topsail Beach, ~~with respect to~~ for the regulated area designated in Subparagraph (3) of Paragraph (a) of this Rule, and the Board of Commissioners of the Town of Surf City, ~~with respect to~~ for the regulated area designated in Subparagraph (5) of Paragraph (a) of this Rule are the designated ~~as suitable~~ agencies for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0326 PAMLICO COUNTY

(a) Regulated Areas. This Rule applies to the following waters or portions of waters in Pamlico County:

- (1) ~~Silverthorn Bay~~ Silverthorn Bay off of Burton Creek; the waters of Silverthorn Bay, a tributary ~~of Bay~~ Burton Creek known as Silverthorn Bay, Lower Broad Creek; north of a line at a point on the east shore at 35.09531 N, 76.60791 W to a point on the west shore at 35.09572 N, 76.60883 W.
- (2) Minnesott Beach: the Minnesott Beach Yacht Basin and its access channel ~~inland from the shoreline to~~ extending 30 yards beyond the outermost ~~points of the~~ rock jetties in Neuse River.

(b) Speed Limit. No person shall operate any ~~motorboat or~~ vessel at greater than no-wake speed in the regulated areas described in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Pamlico County is the designated ~~a suitable~~ agency for placement ~~and maintenance~~ of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0328 MARTIN COUNTY

(a) Regulated Area. This Rule applies to those waters of Gardner's Creek located in Martin County.

(b) Speed Limit. No person shall operate any ~~motorboat or~~ vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of the regulated area designated in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Martin County is the designated ~~a suitable~~ agency for placement ~~and maintenance~~ of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0330 CARTERET COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Carteret County:

- (1) the waters of Money Island Slough, beginning at the east end of Money Island near the Anchorage Marina Basin at a point at 34.70187 N, 76.72938 W and ending at the west end of Money Island where Brooks Avenue dead ends ~~at the slough; at a point at 34.70235 N, 76.73271 W;~~
 - (2) the waters of ~~Taylor's~~ Taylor Creek in Beaufort, shore to shore from ~~where Taylor's Creek meets the its intersection with the~~ Newport River at the western end, to a line at the eastern end between a point on the north shore at 34.70762 N, 76.61784 W, south-southwest to the eastern tip of Carrot Island;
 - (3) the waters of ~~Pelletier~~ Peletier Creek, beginning at the entrance to ~~Pelletier~~ Peletier Creek at the Intracoastal Waterway at a point at 34.72543 N, 76.78044 W and ending at U.S. Highway 70;
 - (4) the waters of Bogue Sound Harbor Channel in Morehead City, between ~~Sugar Leaf~~ Sugarloaf Island and the seawall on the south side of Evans, Shepard, and Shackelford Streets, ~~and bounded on from the east by at the State Ports Authority, and on the Authority,~~ west ~~by the eastern right of way margin of South 13th Street extended;~~ to a point at 34.71829 N 34.71848 N, 76.72015 W at the southern end of South 13th Street;
 - (5) the waters of ~~Gallant's~~ Gallants Channel, from the ~~US 70 crossing over the U.S. 70~~ Grayden Paul ~~bridge~~ Bridge at a point at 34.72248 N, 76.66936 W, south to ~~Taylor's Taylor Creek;~~ Creek at a point at 34.71775 N, 76.66950 W;
 - (6) the waters of Cedar Island Bay and ~~Harbor,~~ Harbor in the Town of Cedar Island, from N.C. Highway 12 to Cedar Island Bay Channel Light 8;
 - (7) the waters of the small cove on the west side of Radio Island south of Old Causeway Road;
 - (8) the waters of the Newport River, ~~beginning at the north side of the Beaufort Drawbridge and ending from a point north of the US 70 Grayden Paul Bridge at 34.72265 N, 76.66930 W, north northwest to at marker #6;~~
 - (9) the waters of ~~Spooners~~ Spooner Creek ~~within the territorial limits of the Town of in Morehead City as delineated by appropriate markers; City,~~ north of a point where it enters the Intracoastal Waterway at 34.72570 N, 76.80294 W;
 - (10) the waters of the Newport River at Bogue Sound, including all waters surrounding the Port of Morehead City to ~~Brandt~~ Goat Island as delineated by appropriate markers;
 - (11) the waters of Newport River, known as Morgans Morgan Creek, ~~as delineated by appropriate markers;~~ west northwest of a point at the mouth at 34.71611 N, 76.67814 W;
 - (12) the waters of Cannonsgate Marina and the Cannonsgate Marina Channel, beginning at its intersection with Bogue Sound at 34.70163 N, 76.98157 W, as delineated by appropriate markers;
 - (13) the waters of the Newport River within 200 yards of the Newport River Beach Access Boat Ramp, beginning at the shore north of the U.S. 70 ~~Newport River bridge~~ Bridge at a point at 34.72141 N, 76.68707 W, west to a point at 34.72128 N, 76.68893 W, north to a point at 34.72376 N, 76.68911 N, then east to the shore at 34.72371 N, 76.68631 W;
 - (14) the waters of Palmetto Drive canal, a tributary to the White Oak River, beginning at a point on the western shore at 34.67903 N, 77.10142 W to a point on the eastern shore at 34.67899 N, 77.10098 W and extending the entire length of the canal; and
 - (15) ~~that the~~ portion of the canal at Dolphin Bay Estates, a tributary to the White Oak River, beginning 30 yards inside the entrance to the canal and extending the entire length of the canal.
- (b) Speed Limit. It is unlawful to operate a ~~motorboat or~~ vessel at a speed greater than no-wake speed while on the waters of the regulated areas designated in Paragraph (a) of this Rule.
- (c) Placement of Markers. The following agencies ~~shall be designated as are the suitable~~ designated agencies for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:
- (1) the Board of Commissioners of Carteret County, ~~with respect to for~~ the regulated areas designated in Subparagraphs ~~(a)(1), (1), (3), (5), (6), (7), (8), (11), and (12)~~ of Paragraph (a) of this Rule;
 - (2) the Board of Commissioners of the Town of Beaufort, ~~with respect to for~~ the regulated area designated in Subparagraph ~~(a)(2)~~ (2) of Paragraph (a) of this Rule;
 - (3) the Board of Commissioners of Morehead City, ~~with respect to for~~ Subparagraph Subparagraphs (a)(4), (4), (9), and (13) of Paragraph (a) of this Rule;
 - (4) the North Carolina State Ports Authority, ~~with respect to for~~ the regulated area designated in Subparagraph ~~(a)(10)~~ (10) of Paragraph (a) of this Rule; and
 - (5) the Board of Commissioners of the Town of Cedar Point ~~with respect to for~~ the regulated areas designated in Subparagraphs ~~(a)(14)~~ (14) and (15) of Paragraph (a) of this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0331 WAKE COUNTY

- (a) Regulated Area. This Rule applies to the waters of Lake Wheeler located in Wake County.
- (b) Speed Limit. No person shall operate any ~~motorboat or~~ vessel at greater than no-wake speed within 50 yards of any public boat

launching ramp while on the waters of the regulated area designated in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Raleigh City Council is the designated ~~a suitable~~ agency for placement ~~and maintenance~~ of the markers implementing this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0334 GUILFORD COUNTY

(a) Regulated Area. This Rule applies to the waters of Oak Hollow ~~Lake (High Point Reservoir) Lake, also known as High Point Reservoir,~~ in Guilford County.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no wake speed within 50 yards of any public boat launching ramp.

(c) Speed Limit Near Piers. No person shall operate a vessel at greater than no-wake speed within 50 yards of any pier operated by the City of High Point for public use.

(d) Placement ~~and Maintenance~~ of Markers. The City Council of High Point is the designated ~~as a suitable~~ agency for placement ~~and maintenance~~ of markers implementing this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0337 FRANKLIN COUNTY

(a) Regulated Area. This Rule applies only to Lake Royale in Franklin County.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of Lake Royale in Franklin County.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area established with the approval of the Executive Director, or his representative, on the waters of Lake Royale in Franklin County.

(d) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the Executive Director, or his representative, on the waters of Lake Royale in Franklin County.

(e) Placement and Maintenance of Markers. The Board of Commissioners of Franklin County is the designated ~~a suitable~~ agency for placement and maintenance of the markers implementing this Rule, ~~subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers. With regard to marking Lake Royale, all of the supplementary standards listed in Rule .0301(g) of this Section shall apply.~~ Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0348 PERSON COUNTY

(a) Regulated Area. This Rule applies to the Mayo Electric Generating Plant Reservoir, otherwise known as Mayo Reservoir, ~~which is located~~ in Person County.

(b) Restricted Zones. Except for authorized personnel of the power company, no person shall operate a ~~motorboat~~ or vessel in any restricted zone which is marked to prevent entry by boats.

(c) Mast Height. No person shall place or operate on the regulated area described in Paragraph (a) of this Rule any sailboat or other vessel having a mast or any superstructure extending vertically above water level a distance of 35 feet or more.

(d) Speed Limit. Except as provided in Paragraph (e) of this Rule, no person shall operate a vessel at greater than no-wake speed within 50 yards of any marked bridge, boat launching ramp, pier, boat storage structure, or boat service area on the regulated area described in Paragraph (a) of this Rule.

(e) Skiing. Except to leave or return to the shore or a boat launching ramp, no skiing is permitted within any speed zone described in Paragraph (d) of this Rule. In leaving or returning to the shore or boat ramp, all vessels pulling skiers shall be operated on a course perpendicular to the shore line. ~~Upon dropping skiers within any such speed zone, the boat speed shall be reduced to no wake speed.~~ Upon returning, all vessels pulling skiers shall reduce to no-wake speed when the skiers have entered the restricted area.

(f) Swimming Areas. No person shall operate any vessel or water skis within a marked public swimming area.

(g) Boating Access. No vessel shall be placed on the regulated area described in Paragraph (a) of this Rule from any point other than the ~~boat launching ramp~~ Triple Springs Boating Access Area provided on SR 1515.

(h) No Wake Zone. No person shall operate a vessel at greater than no wake speed within the waters of the channel on Mayo Reservoir beginning north of the Triple Springs Boating Access Area, shore to shore from ~~36.48051 N 36.48054 N, 78.87763 W 78.87754 W~~ to ~~36.47994 N 36.47992 N, 78.87963 W 78.87972 W,~~ southward ending at an area below the Mayo Park ADA Fishing Pier shore to shore from ~~36.47753 N 36.48054 N, 78.87681 W 78.87754 W~~ to ~~36.4772 N 36.47718 N, 78.87828 W 78.87836 W.~~

(i) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Person County is the designated ~~a suitable~~ agency for placement ~~and maintenance~~ of markers implementing this Rule. ~~Provided the said board exercises its supervisory responsibility, it may delegate the actual placement and maintenance to some other responsible agency, corporation, group or individual. With regard to marking the regulated area described in Paragraph (a) of this Rule, the supplementary standards set forth in Rule .0301(g) of this Section shall apply.~~

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0351 NEW BERN

(a) Regulated Area. This Rule applies to that part of the Trent River that is located within the city limits of New Bern in Craven County.

(b) Speed Limit. No person shall operate any vessel at greater than no-wake speed on the Trent River between the Trent River Railroad Bridge and the ~~Alfred A. Cunningham Highway (old US 70) Bridge~~ Trent River Bridge on East Front Street, in the City of New Bern.

(c) Placement ~~and Maintenance~~ of Markers. The Board of Alderman of the City of New Bern is the designated ~~a suitable~~ agency for placement ~~and maintenance~~ of the markers implementing this Rule, subject to the approval of the United

States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0352 CAMDEN COUNTY

(a) Regulated Areas. This Rule applies to the waters described below:

- (1) The waters of Edgewater Canal, beginning at a point at 36.17539 N, 75.97945 W, running parallel with and along the south shore of Camden Point in Camden County and the connecting channels to Albemarle Sound; Sound in Camden County;
- (2) That the portion of Turner's Turners Cut (South Mills Shore Canal) Cut, otherwise known as South Mills Shore Canal, for a distance of approximately 1000 feet, south of a line from a point on the east shore at 36.41129 N, 76.30598 W to a point on the west shore at 36.41096 N, 76.30654 W and north of a line from a point on the east shore at 36.40912 N, 76.30402 W to a point on the west shore at 36.40880 N, 76.30462 W;
- (3) ~~The~~ the canals of Whitehall Shores subdivision on the Pasquotank River; and
- (4) ~~The~~ the cove south of Sawyers Creek on the east side of the Pasquotank River in the town of Camden, east of a line from a point on the north shore at ~~36.32383 N~~ 36.32353 N, 76.18087 W 76.18054 W to a point on the south shore at 36.32254 N, 76.18017 W.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within the regulated area described in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Camden County is the designated a suitable agency for placement and maintenance of the markers implementing this Rule. Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0354 PITT COUNTY

(a) Regulated Areas. This Rule applies to the waters described in this Paragraph:

- (1) ~~The entire inlet~~ The waters of Tar River, known as Hardee Creek, shore to shore, west of a line at its intersection-confluence with the main course of Tar River from a point on the north shore at 35.59878 N, 77.31168 W to a point on the south shore at 35.59813 N, 77.31157 W; from the Tar River in Pitt County; and
- (2) ~~that~~ the portion of Tranters Creek east of a line from a point on the north shore at 35.56961 N, 77.09159 W to a point on the south shore at 35.56888 N, 77.09118 W and north of a line from a point on the east shore at 35.56714 N,

77.08941 W to a point on the west shore at 35.56689 N, 77.09029 W.

(b) Speed Limit. No person shall operate a ~~motorboat or~~ vessel at greater than no-wake speed within the regulated areas described in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Pitt County is the designated a suitable agency for placement and maintenance of markers implementing this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0355 PERQUIMANS COUNTY

(a) Regulated Areas. This Rule applies to the following waters:

- (1) Perquimans River:
 - (A) The canals of Holiday Island ~~subdivision; subdivision at Albemarle Sound; and~~
 - (B) Town of Hertford: ~~that~~ the part of the Perquimans River beginning 75 yards northeast of the Perquimans River Bridge (Hertford S-shaped Bridge) parallel to the bridge, shore to shore, and ending approximately 550 yards southwest, at a line from a point on the north shore ~~36.19300 N~~ 36.19305 N, 76.46962 W 76.46957 W to a point on the south shore 36.19150 N, 76.47099 W.
- (2) Yeopim River:
 - (A) The canal ~~entrance~~ between Navaho Trail and Cherokee Trail beginning at a point at 36.07893 N, 76.42278 W;
 - (B) ~~The~~ the canal entrance between Cherokee Trail and Ashe Street beginning at a point at 36.07865 N, 76.42603 W;
 - (C) ~~The~~ within 50 yards of the boat ramp at Ashe and Pine Street;
 - (D) ~~The~~ the canal entrance between Pine Street and Linden Street beginning at a point at 36.07951 N, 76.43402 W;
 - (E) ~~The~~ the canal entrance and boat ramp between Willow Street and Evergreen Drive beginning at a point at 36.08005 N, 76.43735 W;
 - (F) ~~The~~ the canal entrance between Sago Street and Alder Street beginning at a point at 36.07986 N, 76.44063 W; and
 - (~~G~~) ~~The~~ swimming area at the Snug Harbor Park and Beach; and
 - (~~H~~)(G) Bethel Creek north of a line from a point on the west shore at ~~36.09552 N~~ 36.09566 N, 76.47958 W 76.47928 W to a point on the east shore at ~~36.095517 N~~ 36.09534 N, 76.47735 W 76.47738 W to a line from a point on the west shore at 36.10532 N,

- 76.48080 W to a point on the east shore at 36.10516 N, 76.48047 W.
- (3) Yeopim Creek:
- (A) The canal ~~entrance~~ between Mohave Trail and Iowa Trail; Trail beginning at a point at 36.08521 N, 76.41802 W;
- (B) ~~The the~~ canal ~~entrance~~ between Iowa Trail and Shawnee Trail; Trail beginning at a point at 36.08511 N, 76.41763 W;
- (C) ~~The the~~ area within 75 yards of the Albemarle Plantation Marina Piers;
- (D) ~~The the~~ area of the cove known as Beaver Cove, as delineated by appropriate markers; shore to shore beginning at a point at 36.08767 N, 76.42151 W; and
- (E) ~~The the~~ waters of Yeopim Creek adjacent to Heritage Shores North, shore to shore, east of a line from a point on the north shore at 36.11356 N, 76.43138 W to a point on the south shore at 36.11288 N, 76.43173 W, to a line northwest from a point on the east shore at 36.11219 N, 76.42445 W to a point on the west shore at 36.11178 N, 76.42596 W.
- (4) Little River: The entrance to the cove known as "~~Muddy Gut Canal,~~" Muddy Gut Canal which extends from the waters known as "~~Deep Creek,~~" Deep Creek, shore to shore beginning at a line from a point on the east shore at 36.17729 N, 76.28011 W to a point on the west shore at 36.17667 N, 76.28331 W.

(b) Speed Limit. No person shall operate any ~~motorboat~~ or vessel at greater than no-wake speed within the regulated area described in Paragraph (a) of this Rule.

(c) Swimming Area. No person operating or responsible for the operation of any vessel shall permit it to enter the swimming area at the Snug Harbor Park and Beach on the Yeopim River.

~~(d)~~ Placement of Markers. The Board of Commissioners of Perquimans County is the designated a suitable agency for placement of markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0356 PASQUOTANK COUNTY

(a) Regulated Area. This area applies to the canals of the Glen Cove Subdivision in Pasquotank County.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed while on the waters of the regulated area designated in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Board of County Commissioners of Pasquotank County is the designated a suitable agency for placement ~~and maintenance~~ of the markers implementing this ~~Rule.~~ Rule, subject to the approval of the

United States Coast Guard and the United States Army Corps of Engineers.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0361 WILKES COUNTY

(a) Regulated Area. This Rule applies to those waters within 50 yards of any marked boat launching area, bridge, dock, pier, marina, boat storage structure, or boat service area located on W. Kerr Scott Reservoir ~~located~~ in Wilkes County.

(b) Speed Limit. No person shall operate any ~~motorboat~~ or vessel at greater than no-wake speed within any of the regulated area described in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Wilkes County Board of Commissioners is the designated a suitable agency for placement ~~and maintenance~~ of the markers implementing this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0363 CASWELL AND PERSON COUNTIES

(a) Regulated Areas. This Rule applies ~~only on that portion of to~~ the waters of Hyco Lake ~~which lies within the boundaries of in~~ Caswell and Person ~~Counties~~ counties, and to the restricted zones indicated by Paragraphs (b) and (c) of this Rule on such waters.

(b) Speed Limit Near Bridges. No person shall operate a vessel at greater than no-wake speed ~~limit~~ within 50 yards of any ~~bridges~~ crossing over bridge that crosses the waters of Hyco Lake.

(c) Speed Limit in Canals. No person shall operate a vessel at greater than no-wake speed ~~limit~~ within any canals ~~connected to~~ on Hyco Lake.

(d) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Caswell and Person Counties are the hereby designated as suitable agencies for placement ~~and maintenance~~ of the markers implementing this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0364 GREENSBORO

(a) Regulated Area. This Rule applies to the waters of Lake Brandt, Lake Higgins, ~~Lake Townsend and Lake Townsend,~~ otherwise known as Greensboro Municipal Reservoirs, ~~(Greensboro Municipal Reservoirs)~~ within the city limits of Greensboro in Guilford County.

(b) Speed Limit. No person shall operate a vessel at greater than no wake speed within 50 yards of any marked public boat launching ramp, bridge, dock, marina, boat storage structure, boat service area or pier operated by the City of Greensboro for public use.

(c) Restricted Zones. No person operating or responsible for the operation of any vessel shall permit ~~the same it~~ to enter any restricted zone marked to prevent entry by vessels.

(d) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Guilford County is the designated a suitable agency for placement ~~and maintenance~~ of markers implementing this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0365 TYRRELL COUNTY

(a) Regulated Area. This Rule applies to the following waters in Tyrrell County:

- (1) ~~That the~~ portion of the Scuppernong River from 300 yards ~~west north-northwest of the Highway 64 U.S. Highway 64 bridge to 100 yards east south-southwest of the Highway 64 bridge as designated by the appropriate markers. U.S. Highway 64 bridge.~~
- (2) ~~That the~~ portion of the Scuppernong River from the point where the canal to the Columbia Boat Ramp Boating Access Areas intersects the river, and extending 200 feet into the river as designated by the appropriate markers. river.
- (3) ~~The entire~~ the waters of the canal that leads to the marina at Taylor's Beach on Albemarle Sound in Columbia, beginning at a point at 35.95559 N, 76.30219 W.

(b) Speed Limit. It is unlawful to operate a vessel at greater than no-wake speed in the regulated areas described in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Tyrrell County is the designated ~~as the~~ suitable agency for the placement ~~and maintenance~~ of the markers implementing this ~~Rule. Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.~~

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0368 TOWN OF NAGS HEAD

(a) Regulated Area. This Rule applies to the waters of the Roanoke Sound extending 600 feet from the shoreline; ~~adjacent to and~~ from the northern boundary of the Old Nags Head Cove Subdivision at a point at 35.95136 N, 75.63233 W to the southern boundary of the Old Nags Head Cove Subdivision at a point at 35.93676 N, 75.62223 W, and marked by buoys.

(b) Speed Limit. No person shall operate any ~~motorboat or~~ vessel at greater than no-wake speed within any of the regulated area described in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The Town of Nags Head is the designated ~~a~~ suitable agency for placement ~~and maintenance~~ of the markers implementing this ~~Rule. Rule, subject to the approval of the United States Coast Guard and United States Army of Corps of Engineers.~~

Authority G.S. 71A-15; 72A-3.

15A NCAC 10F .0370 CITY OF ROCKY MOUNT

(a) Regulated Areas. This Rule applies to the waters of the Tar River shore to shore, beginning 100 yards upstream from at the North Carolina SR-43 N.C. Highway Bridge, also known as the Bridge on Peachtree Street Bridge, Street, eastward 100 yards and ending at to the edge of the Rocky Mount Mill Dam. on the Tar River.

(b) Swimming or boating. No swimming or other entry of a person in or upon a boat, raft or other floating object shall be

permitted within the ~~exclusion~~ exclusionary zone established in Paragraph (a) of this Rule.

(c) Paragraph (b) of this Rule shall not apply to persons who, with consent of the City of Rocky Mount, require access for ~~the purpose of~~ maintaining or repairing facilities associated with the Rocky Mount Mill Dam or the Rocky Mount Mill.

(d) Placement ~~and Maintenance~~ of Markers. The City of Rocky Mount is designated as the a suitable entity for placement ~~and maintenance~~ of buoys and other signs indicating the areas in which boating and swimming are prohibited by this Rule.

Authority G.S. 75A-3; 75A-15.

15A NCAC 10F .0374 CUBE YADKIN GENERATION SAFETY ZONES

(a) Regulated Area. This Rule applies to the area one hundred feet upstream or downstream from the stations and ~~dams (and dams, associated structures, abutments and equipment of these at the following stations and dams) listed in Paragraph (f) of this Rule. stations:~~

- (1) Narrows Hydroelectric Station on the Yadkin River in Stanly and Montgomery Counties;
- (2) High Rock Hydroelectric Station on the Yadkin River in Rowan and Davidson Counties.

(b) Fishing. Except as otherwise provided in this Paragraph or in Paragraph (c) of this Rule, no person may enter the waters within the regulated areas described in Paragraph (a) of this ~~Rule. Persons~~ Rule, except persons engaged in fishing within the regulated areas described in Paragraph (a) of this Rule may enter these waters in connection with such fishing activities provided that they shall wear at all times a U.S. Coast Guard approved personal ~~floatation~~ floatation device in serviceable condition and of appropriate size for the wearer.

(c) Boating. Any person in or upon a boat, raft or other floating object that enters into the regulated areas described in Paragraph (a) of this Rule shall wear at all times a U.S. Coast Guard approved personal ~~floatation~~ floatation device in serviceable condition and of appropriate size for the wearer.

(d) No vessel may tie off to any part of the hydroelectric station structure or the accessory portions thereof within regulated areas described in Paragraph (a) of this Rule, or ~~to~~ anchor or otherwise secure a vessel in these areas.

~~(d) Paragraph (e)(d) of this Rule does not apply to persons who enter with consent of Alecoa Power Generating, Inc. Cube Yadkin Generation for the purpose of maintaining, repairing or evaluating facilities of Alecoa Power Generating, Inc.; Cube Yadkin Generation; law enforcement or emergency personnel; or NC N.C. state employees acting in an official capacity.~~

~~(e) Placement and Maintenance of Markers. Alecoa Power Generating, Inc. Cube Yadkin Generation is the designated as a suitable entity for placement and maintenance of buoys and other signs implementing this Rule.~~

~~(f) Alecoa Power Generating Inc., hydroelectric stations affected by this Rule:~~

- (1) Narrows Hydroelectric Station in Yadkin River in Stanly and Montgomery Counties;
- (2) High Rock Hydroelectric Station in Yadkin River in Rowan and Davidson Counties.

Authority G.S. 75A-3; 75A-15.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to adopt the rules cited as 15A NCAC 10H .1401-.1406.

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

Proposed Effective Date: January 1, 2019

Public Hearing:

Date: October 26, 2017

Time: 7:00 p.m.

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

Public Hearing:

Date: November 2, 2017

Time: 7:00 p.m.

Location: Craven Community College, Naumann Community Room, 800 College Court, New Bern, NC 28562

Public Hearing:

Date: November 7, 2017

Time: 7:00 p.m.

Location: NC Coop Extension, 444 Bristol Drive, Statesville, NC 28677

Reason for Proposed Action: The NC Wildlife Resources Commission routinely reviews the need to adjust seasons, bag limits, and the management of resources and land in order to achieve conservation management goals, comply with statutory changes, and respond with constituent requests. Additionally, pursuant to 150B-21.3A, the agency is required to review all existing rules on a schedule determined by the Rules Review Commission. All 15A NCAC 10H rules were reviewed during the 2016 periodic review process. As a result of this review, Section .0300 – Holding Wildlife in Captivity, was determined to be "necessary with substantive public interest". To incorporate all the necessary changes, the existing captivity rules in 15A NCAC 10H, Rules .0301-.0304 were revised and reorganized into a new Section of subchapter 10H (15A NCAC 10H .1400 – Wildlife Captivity and Rehabilitation). The proposed rules separate rehabilitation and long-term captivity requirements, incorporate necessary definitions and provisions to be used throughout the subchapter, detail enforcement actions, and specify form contents.

Comments may be submitted to: Carrie Ruhlman, Rule-making Coordinator, 1701 Mail Service Center, Raleigh, NC 27699-1701, regulations@ncwildlife.org

Comment period ends: December 1, 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 10 – WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10H – REGULATED ACTIVITIES

SECTION .1400 – WILDLIFE CAPTIVITY AND REHABILITATION

15A NCAC 10H .1401 DEFINITIONS AND GENERAL REQUIREMENTS FOR CAPTIVITY LICENSES

(a) Notwithstanding any other captivity rules, the rules in this Section apply to all captivity licenses issued by the Wildlife Resources Commission, including those applicable to non-farmed cervids in accordance with G.S. 106-549.97.

(b) The possession of any species of native wild animal or wild bird, that occurs or historically occurred in this State or any member of the family Cervidae is unlawful, unless the individual in possession obtains a captivity license from the Commission as provided by this Rule. This Rule shall not apply to any endangered, threatened, or special concern species as defined in 15A NCAC 10I .0100.

(c) The following definitions shall apply to 15A NCAC 10H .1400 rules:

- "Category" means a designation on a captivity license for wildlife rehabilitation that defines a species or subset of species.
"Educational facility" means a permanent location or establishment accredited by the Association of Zoos and Aquariums (AZA) whose primary purpose shall be educating the public about wildlife.
"Educational institution" means any public or private institution of vocational, professional, or higher education in which black bears are

- kept or exhibited as part of a course of training or research in the natural sciences.
- (4) "Educational use" means used for the purposes of providing instruction or education to the public about wildlife.
- (5) "Elevated platform" or "perching area" means a surface or structure, either natural or manmade, positioned above the floor of the enclosure that is accessible to the animal(s).
- (6) "Enclosure" means a structure housing captive wildlife that prevents escape, protects the caged animal from injury, and is equipped with structural barriers to prevent any physical contact with the caged animal by the public.
- (7) "Exhibition" means the public display of wildlife for-profit or not-for-profit.
- (8) "Farmed cervid" as defined in G.S. 106-549.97.
- (9) "Gnawing and chewing items" means natural or artificial materials that provide for the health of teeth. Gnawing items may include logs and trees. Chewing items may include woody stems, knuckle bones, and rawhide objects.
- (10) "Habituation" means causing an animal to lose fear of humans or the ability to survive in the wild unassisted as a result of handling, imprinting, or taming.
- (11) "Migratory birds" means all birds as defined in G.S. 113-129.
- (12) "Native" means a species that occurs in the wild or historically occurred in the wild in North Carolina.
- (13) "Nest box" or "den" means a structure that provides a retreat area that is within, attached to, or adjacent to an enclosure.
- (14) "Non-farmed cervid" as defined in G.S. 106-549.97.
- (15) "Non-native" means a species that has not historically occurred in North Carolina.
- (16) "Original floor area" means the total square footage required for the initial number of animals specified.
- (17) "Pet" means any animal kept or used for amusement or companionship.
- (18) "Publicly operated zoo" means a park or institution in which living animals are kept and exhibited to the public, and that is operated by a federal, State, or local government agency.
- (19) "Rabies species" are species that include raccoon, skunk, fox, bat, bobcat, coyote; or groundhog and beaver, which are considered high risk for rabies transmission because of their econiche.
- (20) "Research institution" means any school, facility, or organization, that uses or intends to use live animals in research, tests, or experiments in the advancement of medical, veterinary, dental, or biological sciences, and is at least 50 percent funded by grants, awards, loans, or contracts from a department, agency, or instrumentality of federal, State, or local government. This does not include elementary or secondary schools.
- (21) "Residence" means a private home, dwelling unit in a multiple family structure, hotel, motel, camp, manufactured home, or any other place where people reside.
- (22) "Shelter" means a structure or feature that protects captive wildlife from direct sunlight and precipitation.
- (23) "Sanctuary" means a facility with ecological, faunal, floral, geomorphological, natural, or zoological significance appropriate for the species, where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wild animals and/or wild birds are provided care for the lifetime of the animal. This shall not include any refuge that conducts commercial or for-profit activities with wild or dangerous animals, uses the animals for entertainment purposes, or breeds animals.
- (24) "Scientific use" and "scientific purpose" means the use of wildlife for application of the scientific method to investigate any relationships amongst natural phenomena or to solve a biological or medical problem.
- (25) "Unfit" means wild animals or wild birds that are:
- (A) incapacitated by injury or other means to the extent that they cannot feed or care for themselves without human assistance;
- (B) rendered habituated by proximity to humans; or
- (C) a non-native species.
- (26) "Wild animal" means game animals, fur-bearing animals, and all other wild mammals. This does not include feral swine or marine mammals found in coastal fishing waters.
- (27) "Wild bird" means the term as defined in G.S. 113-129.
- (28) "Wildlife" means the term as defined in G.S. 113-129.
- (29) "Wildlife educator" means a person who provides instruction or education to the public about wildlife.
- (30) "Wildlife exhibition" means a public display of wildlife either for-profit or not-for-profit.
- (d) Individuals interested in obtaining a captivity license for wildlife rehabilitation or a captivity license for holding wildlife shall apply for the license by completing and submitting the appropriate forms as detailed in Rule .1406 of this Section.
- (e) Applicants for either license shall meet the following requirements:
- (1) Be 18 years of age or older at the time of application; and
- (2) Have no criminal convictions under Article 47 of Chapter 14, of the North Carolina General

Statutes, with the exception of convictions under G.S. 14-363.1.

- (f) No captivity license shall be transferable either by license holder or by site of a holding facility.
- (g) Captivity licenses shall terminate no later than December 31 of the year the license is issued.
- (h) No captivity license shall be valid for migratory birds, unless the license holder has a valid concurrent federal permit. Individuals seeking to rehabilitate or hold migratory birds shall provide proof of a valid U.S. Fish and Wildlife Service permit for rehabilitating or holding migratory birds for each category of migratory birds to be rehabilitated or held.
- (i) Except as otherwise provided, no transportation permit shall be required to move wild animals or wild birds held under a captivity license within the State. Any person transporting an animal that is held under a captivity license shall have the captivity license in their possession. An exportation or importation permit as defined in G.S. 113-274(c)(3) is required to transport wildlife into or out of the State.
- (j) Individuals holding a captivity license shall disclose reportable diseases to the North Carolina Department of Agriculture and Consumer Services veterinarian within 24 hours of diagnosis. A list of current reportable diseases may be found on the North Carolina Department of Agriculture and Consumer Services website www.ncagr.gov.

Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-274.

15A NCAC 10H .1402 MINIMUM STANDARDS

(a) Individuals holding a captivity license for wildlife rehabilitation shall conduct their rehabilitation activities at the facility designated on their license that meets the minimum standards set forth in the "Miller, E.A., edition. 20120. Minimum Standards for Wildlife Rehabilitation, 4th edition. National Wildlife Rehabilitators Association, St. Cloud, MN. 116 pages. ISBN 978-1-931439-28-2". This publication is available online at <https://theiwrc.org/resources/guidelines-for-wildlife-rehabilitation> for a cost of fifteen dollars (\$15.00).

(b) Individuals holding a captivity license for holding shall comply with the following requirements:

- (1) General Sanitation and Food Requirements. Each license holder shall comply with the following general requirements in addition to any requirements specified by species.
 - (A) water: clean drinking water shall be provided daily. All pools, tanks, water areas, and water containers provided for swimming, wading, or drinking shall be clean. Enclosures shall provide drainage for surface water and runoff.
 - (B) sanitation: water disposal and waste disposal shall be in accordance with all applicable local, State, and federal laws.
 - (C) food: food shall be of a type and quantity that is appropriate for the particular species, and shall be provided in an unspoiled and

uncontaminated condition. Clean containers shall be used for feeding. waste: fecal and food waste shall be removed daily from inside, under, and around enclosures and stored or disposed of in a manner that prevents noxious odors or pests.

- (D)
- (E) cleaning: hard floors within enclosures shall be cleaned a minimum of once weekly. Walls of enclosures shall be spot cleaned daily. The surfaces within enclosures, including perches, shelves, and any fixtures shall be cleaned weekly.

(2) General Enclosure Requirements. Each license holder shall comply with the following general requirements in addition to any requirements specified by species.

- (A) enclosures housing captive wildlife shall prevent escape, protect the caged animal from injury, and be equipped with structural barriers to prevent any physical contact with the caged animal by the public. Structural barriers may be constructed from materials such as fencing, moats, landscaping, close-mesh wire, or other materials, provided that materials used are safe and effective in preventing escape and public contact;
- (B) all enclosures constructed of chain link or other approved materials shall be well braced and securely anchored. Enclosures shall be constructed using metal clamps, ties or braces of equivalent strength as material required for enclosure construction for that particular species;
- (C) enclosures shall be ventilated to prevent noxious odors;
- (D) enclosures with a natural substrate shall provide a dig barrier that prevents escape;
- (E) any surface of an enclosure shall be free of rust that either prevents required cleaning or affects the structural strength of the enclosure;
- (F) the young of any animal may be kept with the parent in a single-animal enclosure until weaning. After weaning, if the animals are kept together, the requirements for multiple-animal enclosures in this Rule apply; and
- (G) chains or tethers shall not be used as a method of confinement.

(3) Non-farmed Cervids

- (A) the minimum size of the enclosure shall not be less than one-half acre for

- (B) the first three animals and an additional one-fourth acre for each additional animal held, provided that no more than 25 percent of the enclosure shall be covered with water; the enclosure shall be surrounded by a fence at least eight feet high, of sufficient strength and design to contain cervids and prevent contact with wild cervids;
 - (C) each enclosure shall be equipped with a shelter or shelters large enough to accommodate all the animals in the enclosure at the same time; and
 - (D) cervids shall not be contained within or allowed to enter a place of residence or any enclosure that has not been inspected and approved to hold cervids by a representative of the Commission, except as specifically authorized by law or rule of the Wildlife Resources Commission.
- (4) Wild Turkey
- (A) for up to 5 birds, an enclosure 12 feet by 12 feet, 6 feet high, with a perching area elevated 4 feet above the floor. For each additional bird, the license holder shall increase the original floor area by 10 percent; and
 - (B) each enclosure shall be equipped with a shelter or shelters large enough to accommodate all the animals in the enclosure at the same time.
- (5) Alligators
- (A) the minimum size of the enclosure shall be based upon the length of the longest animal. Land area with both horizontal dimensions at least as long as the longest animal shall be provided. In case of more than one animal, the combined area covered by all their bodies while aligned parallel without overlap shall not exceed 50 percent of the land area;
 - (B) enclosure shall be made of material with a smooth surface;
 - (C) the enclosure shall have a structural barrier with a minimum height of 5 feet, of sufficient strength to contain the animals, and shall prevent contact between the observer and alligator;
 - (D) in addition to the land area, the enclosure shall contain a pool of water large enough for all the animals in the enclosure to completely submerge themselves at the same time;
 - (E) steps shall be taken to provide opportunities for thermal regulation;
- (F) each enclosure shall contain devices to provide physical manipulation and mental stimulation for the species;
 - (G) each enclosure shall be equipped with a shelter or shelters large enough to accommodate all animals in the enclosure at the same time; and
 - (H) the facility shall have a perimeter boundary to prevent unauthorized entry and aid in the confinement of animals. This boundary should be located at least 3 feet from the primary enclosure, be no less than 8 feet in height, and be constructed of not less than 11.5 gauge chain link or equivalent.
- (6) Black Bear
- (A) publicly operated zoo or educational institution:
 - (i) for 1 animal, an enclosure 20 feet by 20 feet, 8 feet high, covered to prevent escape, or 12 feet high with a 45 degree inward angle overhang 3 feet wide. For each additional animal, the license holder shall increase the enclosure size by 25 percent of the original floor area;
 - (ii) each enclosure shall be equipped with a shelter or shelters large enough to accommodate all the animals in the enclosure at the same time;
 - (iii) each enclosure shall have devices to provide physical manipulation and mental stimulation for the species;
 - (iv) each enclosure shall have an elevated platform or platforms large enough to accommodate all of the animals in the enclosure at the same time; and
 - (v) each enclosure shall have a pool of water 4 feet by 6 feet, at least 3 feet deep.
 - (B) other facilities. Black bears held in captivity by facilities other than publicly funded zoos or research institutions shall be held in enclosures simulating a natural habitat. All of the following conditions shall exist:
 - (i) the enclosure is at least one acre for one or two bears and an additional one-eighth acre for each additional bear;

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- (ii) bears are free to move throughout the enclosure;
 - (iii) at least one-half of the enclosure shall be wooded with living trees, shrubs, and other perennial vegetation capable of providing shelter from sun and wind. A 20 foot wide strip along the inside of the fence shall be maintained free of trees, shrubs, and any other obstructions that could provide a means of escape;
 - (iv) the enclosure shall have a pool of water 4 feet by 6 feet, at least 3 feet deep;
 - (v) the enclosure shall contain at least one den large enough to accommodate all the bears at the same time, that provides shelter from the elements and respite from public observation;
 - (vi) the enclosure shall present an overall appearance of a natural habitat;
 - (vii) the enclosure shall be by:
 - (I) 9 gauge chain link fence at least 12 feet high with a 45 degree inward angle overhang 3 feet wide; or
 - (II) wall, moat, or a combination of such, as approved by the Commission.
 - (viii) the facility shall have a perimeter boundary to prevent unauthorized entry and aid in the confinement of animals. This boundary should be located at least 3 feet from the primary enclosure, be no less than 8 feet in height, and be constructed of not less than 11.5 gauge chain link or equivalent; and
 - (ix) the applicant shall provide documentation that the applicant owns or has a lease of the real property upon which the holding facility is located. If the applicant is a lessee, the lease shall be for a duration of at least five years from the point of stocking the facility.
- (7) Cougar
- (A) publicly operated zoo or research institution:
 - (i) for 1 or 2 animals, an enclosure 20 feet by 20 feet, 8 feet high. For each additional animal, the license holder shall increase the enclosure size by 25 percent of the original floor area;
 - (ii) enclosures under 1,000 square feet shall be covered to prevent escape. Enclosures over 1,000 square feet shall have vertical jump walls at least 12 feet high with a 45 degree inward angle overhang 3 feet wide. Other methods to prevent escape may be approved by the Commission on a case by case basis.
 - (iii) each enclosure shall be equipped with a shelter or shelters large enough to accommodate all the animals in the enclosure at the same time;
 - (iv) each enclosure shall have devices to provide physical manipulation and mental stimulation for the species;
 - (v) each enclosure shall have an elevated platform or platforms large enough to accommodate all of the animals in the enclosure at the same time; and
 - (vi) each enclosure shall have a claw log, unless the animal's front claws have been removed.
 - (B) other facilities. Cougars held in captivity by facilities other than publicly funded zoos or research institutions shall be held in enclosures simulating a natural habitat. All of the following conditions shall exist:
 - (i) the enclosure shall be chain link fence or equivalent, provided that 9 gauge chain link fencing shall be at least 12 feet high with a 45 degree inward angle overhang 3 feet wide to prevent escape from climbing and jumping;
 - (ii) the enclosure shall be at least one acre for two cougars with

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| | <u>an additional one-eighth acre for each additional cougar;</u> | |
| (iii) | <u>cougars shall be free to move throughout the enclosure;</u> | (D) |
| (iv) | <u>at least one-half of the enclosure shall be wooded with living trees, shrubs, and other perennial vegetation capable of providing shelter from sun and wind. A 20 foot wide strip along the inside of the fence shall be maintained free of trees, shrubs, and any other obstructions that could provide a base from where escape through leaping could occur;</u> | (E) |
| (v) | <u>the area of confinement shall contain a pool not less than 4 feet by 5 feet, at least 1.5 feet deep; and</u> | (F) |
| (vi) | <u>the enclosure shall contain a den or shelter large enough to accommodate all the animals in the enclosure at the same time.</u> | |
| (C) | <u>the facility shall have a perimeter boundary to prevent unauthorized entry and aid in the confinement of animals. This boundary should be located at least 3 feet from the primary enclosure, be no less than 8 feet in height, and be constructed of not less than 11.5 gauge chain link or equivalent; and</u> | (9) Coyote |
| (D) | <u>the applicant shall provide documentation that the applicant owns or has a lease of the real property upon which the facility is located. If the applicant is a lessee, the lease shall be for a duration of at least five years from the point of stocking the facility.</u> | (A) |
| (8) Bobcat | | (B) |
| (A) | <u>for 1 or 2 animals, an enclosure 15 feet by 8 feet, 6 feet high. For each additional animal, the license holder shall increase the enclosure size by 25 percent of the original floor area;</u> | (C) |
| (B) | <u>enclosures under 1,000 square feet shall be covered to prevent escape. Enclosures over 1,000 square feet shall have vertical jump walls at least 12 feet high with a 45 degree inward angle overhang 3 feet wide. Other methods to prevent escape may be approved by the Commission on a case by case basis;</u> | (D) |
| (C) | <u>each enclosure shall be equipped with a shelter or shelters large enough to</u> | (E) |
| | | (10) Fox (Red and Gray) |
| | | (A) |
| | | (B) |
| | | (C) |

- increase the enclosure size by 25 percent of the original floor area;
 - (B) each enclosure shall have devices to provide physical manipulation and mental stimulation for the species;
 - (C) each enclosure shall have at least one shelter or den large enough to accommodate all of the animals in the enclosure at the same time; and
 - (D) each enclosure shall be equipped with chewing items.
- (18) Armadillo
- (A) for 1 or 2 animals, an enclosure, 4 feet by 4 feet, 4 feet high, non-climbable barrier. For each additional animal, the license holder shall increase the enclosure size by 25 percent of the original floor area;
 - (B) each enclosure shall be equipped with at least one shelter or den large enough to accommodate all of the animals in the enclosure at the same time; and
 - (C) enclosure floors shall include an area that provides for digging.
- (19) Other Wild Animals. In addition to the general requirements provided in this Rule, license holders with animals not specifically listed above must comply with the following:
- (A) single animal enclosures shall be a cage with one horizontal dimension being at least four times the nose-rump length of the animal and the other horizontal dimension being at least twice the nose-rump length of the animal. The vertical dimensions shall be at least twice the nose-rump length of the animal. Under no circumstances shall a cage be less than 4 feet by 2 feet, 2 feet high;
 - (B) the minimum area of horizontal space for multiple animal enclosures shall be determined by multiplying the required square footage for a single animal by 1.5 for one additional animal and that result by the same factor for each additional animal, successively. The vertical dimension for multiple animal enclosures shall remain the same as for single animal enclosures;
 - (C) depending on the species, the Commission may require the enclosure to be covered;
 - (D) each enclosure shall have devices to provide physical manipulation and mental stimulation for the species; and
 - (E) each enclosure shall be equipped with a shelter or shelters large enough to

accommodate all of the animals in the enclosure at the same time.

Authority G.S. 19A-11; 106-549.97(b); 113-134; 113-272.5, 113-272.6.

15A NCAC 10H .1403 CAPTIVITY LICENSE FOR WILDLIFE REHABILITATION

(a) A captivity license for wildlife rehabilitation as described in this Section shall be required for lawful possession of injured, crippled, orphaned, or otherwise unfit wildlife for the purpose of providing short term care and eventual release into the animal's natural habitat. A captivity license for wildlife rehabilitation shall not be issue for:

- (1) Endangered, threatened, or special concern species as defined in 15A NCAC 10I .0100. Rehabilitation of these species requires an endangered species permit from the Commission;
- (2) Rabies species;
- (3) Feral swine;
- (4) Nutria;
- (5) Adult black bear; and
- (6) Adult White-tailed deer or elk.

(b) Individuals who do not possess a captivity license for wildlife rehabilitation may take temporary possession of injured, crippled, or orphaned wildlife, provided they surrender such wildlife into the care of a North Carolina licensed veterinarian or an individual licensed under this Rule within 24 hours of taking possession of such wildlife.

(c) North Carolina licensed veterinarians providing medical care to sick, injured, or crippled wildlife are not required to have a license for wildlife rehabilitation from the Commission. North Carolina licensed veterinarians without a captivity license for wildlife rehabilitation may hold wildlife until the animal is medically stable. Once stable, wildlife shall be transferred to an individual possessing a captivity license for wildlife rehabilitation with the appropriate category for the given species. Licensed veterinarians rehabilitating wildlife for release back to their natural habitat shall have a captivity license for wildlife rehabilitation.

(d) Individuals interested in obtaining a captivity license for wildlife rehabilitation shall meet all statutory and regulatory requirements including those in G.S. 113-272.5, Rules .1401 and .1402 of this Section, and complete the North Carolina general wildlife rehabilitation examination provided by the Commission at no charge on the Commission website (www.ncwildlife.org), by obtaining a score of at least 80 percent once every five years.

(e) A captivity license for wildlife rehabilitation shall not be issued for the purpose of holding wildlife;

- (1) As pets;
- (2) For educational use and exhibition purposes, except as provided in Rule .1404 of this Section;
- (3) For dog training;
- (4) For hunting; or
- (5) Acquired unlawfully.

(f) The following conditions shall apply to captivity licenses for wildlife rehabilitation:

- (1) The license shall not authorize the possession, rehabilitation, or release into the wild of non-native wildlife;
- (2) Categories of wildlife that the individual is licensed to possess, rehabilitate, and release shall be stated on the license;

(g) Transfer of Wildlife

- (1) Wildlife originating outside the State shall not be accepted for the purpose of rehabilitation.
- (2) Wildlife received for rehabilitation may not be exported outside the State for the purpose of rehabilitation, or release after rehabilitation unless authorization is obtained from the Commission and the state where the wild animal will be exported or released.
- (3) It is unlawful for a license holder to sell any wild animal or wild bird being held under a license for rehabilitation.
- (4) It is lawful for a license holder to transfer a wild animal or wild bird to another individual who possesses a valid captivity license for rehabilitation with the appropriate category for the given species.

(h) Treatment and Handling

- (1) Wildlife that have been diagnosed with a zoonotic disease must be treated based upon advice from a North Carolina licensed veterinarian prior to release.
- (2) Any license holder administering drugs to wildlife shall adhere to the withdrawal times recommended by the prescribing North Carolina licensed veterinarian prior to the release of the animal into the wild.

(i) Release

- (1) All rehabilitated wildlife shall be released as soon as the animal has reached physical maturity and can be expected to survive in the wild, and/or has attained full recovery from illness or injury, as determined by the rehabilitator or a North Carolina licensed veterinarian.
- (2) Wildlife may remain in a rehabilitation facility for a maximum of 180 days. If a longer rehabilitation period is recommended by a North Carolina licensed veterinarian, the license holder shall notify the Commission in writing. The Commission will consider extended rehabilitation on a case-by-case basis by evaluation, which may include the nature of the animal's condition and recommended treatment plan.
- (3) The following conditions render a wild animal or wild bird non-releasable and the animals shall be humanely euthanized, unless authorization is requested from the Commission in writing and granted by the Commission in writing, to transfer the wild animal or wild bird to an individual or facility

with a captivity license for holding wildlife as set forth in Rule .1404 of this Section.

- (A) any wildlife with deformities or injuries that preclude survival in the wild after treatment; or
- (B) any wildlife that has become habituated.

The Commission shall consider transfer on a case-by-case basis.

(j) Required facilities

- (1) Individuals holding a captivity license for wildlife rehabilitation shall conduct their rehabilitation activities in accordance with Rule .1402 of this Section.
- (2) All wildlife undergoing rehabilitation shall be kept separated from domestic animals, in separate holding facilities by species, including other rooms or buildings. In-home wildlife rehabilitation facilities shall designate separate rooms used only for wildlife housing, treatment, and rehabilitation.
- (3) Handling of wildlife shall be for treatment only.

(k) White-tailed Deer Fawns and Elk Calves

- (1) Only individuals holding a captivity license for wildlife rehabilitation with the white-tailed deer fawn or elk calf category are allowed to possess, rehabilitate, and release white-tailed deer fawns or elk calves. To become licensed to rehabilitate white-tailed deer fawns or elk calves, an individual shall:
 - (A) meet all the requirements of the captivity license for wildlife rehabilitation; and
 - (B) complete the North Carolina deer fawn and elk calf rehabilitation examination provided by the Commission, by obtaining a score of at least 80 percent once every five years.
- (2) No white-tailed deer fawn or elk calf shall be possessed until the applicant has constructed or acquired an enclosure for keeping fawn that complies with the standards set forth in Rule .1402 of this Section, and the facility has been inspected by a representative of the Commission.
- (3) Any white-tailed deer fawn or elk calf held for more than 24 hours shall be permanently tagged using only tags provided by the Commission.
- (4) White-tailed deer fawns and elk calves shall be held for rehabilitation for a maximum of 180 days or until December 31, whichever occurs first.
- (5) Any individual or facility rehabilitating deer fawns or elk calves and holding farmed or non-farmed cervids, shall:
 - (A) keep the rehabilitated fawns and/or calves at least 30 feet away from any farmed or non-farmed facility; and

(B) utilize dedicated equipment that is different from any equipment used for farmed or non-farmed cervids.

(1) Black Bear Cubs

- (1) Only individuals holding a captivity license for wildlife rehabilitation with the black bear category are allowed to possess and rehabilitate black bear cubs.
- (2) Individuals wanting to obtain a captivity license for black bear rehabilitation shall meet the definition of publicly operated zoo, educational institution, or have facilities that simulate natural habitat as described in Rule .1402 of this Section. Additionally, individuals shall meet all the requirements of the captivity license for wildlife rehabilitation and shall be approved on an as-needed basis to meet conservation objectives.
- (3) No black bear shall be possessed until the applicant has constructed or acquired an enclosure for keeping black bear that complies with the standards set forth in Rule .1402(b)(6) of this Section, and the facility has been inspected by a representative of the Commission.

Authority G.S. 106-549.97(b); 113-134; 113-272.5.

15A NCAC 10H .1404 CAPTIVITY LICENSE FOR HOLDING WILDLIFE

(a) The purpose of a captivity license for holding wildlife is to authorize the possession of lawfully taken or acquired wild animals or wild birds for scientific use, educational use, or exhibition purposes. License holders with animals used for education or exhibition shall maintain records of all education and exhibition activities for a period of 12 months following expiration of the license. This Rule shall not apply to any endangered, threatened, or special concern species as defined in 15A NCAC 10I .0100. Possession of these species requires an endangered species permit from the Commission.

(b) A captivity license for holding wildlife allows the license holder to hold wild animals or wild birds provided:

- (1) The wild animal or wild bird was not acquired unlawfully;
- (2) The wild animal or wild bird will not be held as a pet;
- (3) The wild animal or wild bird will not be hunted in captivity;
- (4) The license holder possesses a valid, concurrent federal permit from the US Fish and Wildlife Service for migratory birds, if applicable; and
- (5) The individual seeking to hold wild animals or wild birds for educational purposes or exhibition shall provide proof of a valid, concurrent, and applicable U.S. Department of Agriculture permit or license, if required by the U.S. Department of Agriculture.

(c) The following conditions shall apply to captivity licenses for holding wild animals or wild birds:

- (1) Wild animals and wild birds shall not comingle with domestic animals, non-native animals, livestock, or wildlife held under a captivity license for rehabilitation;
- (2) Rabies species shall be kept secured at all times so they do not have physical contact with the public, domestic animals, non-native animals, livestock, or other wildlife species held under a captivity license;
- (3) Wild animals shall be kept secured at all times so that the handler is in control of the animal and it presents no danger to the public;
- (4) Wild animals or wild birds shall be tagged or marked in a manner determined by the Commission, based on the animal's size, location and reason for captivity; and
- (5) Reproduction of wild animals and wild birds is unlawful, unless the animals are part of an Association of Zoos and Aquariums breeding program.

(d) No captivity license for holding wildlife shall be issued and no wildlife shall be possessed until the applicant has constructed or acquired an enclosure for keeping a wild animal or wild bird in captivity that complies with the standards set forth in Rule .1402 of this Section, and the facility has been verified by a representative of the Commission.

(e) It is unlawful for an individual with a captivity license for holding wildlife to allow it to range free outside of its enclosure.

(f) It is unlawful for any individual holding a captivity license for holding wildlife to sell, transfer, or release the wild animal or wild bird held under such license, except that such wild animal or wild bird may be surrendered to an agent of the Commission, or transferred to another individual who has obtained a license to hold it in captivity. Upon transfer, the transferor shall create a record for the wild animal or wild bird showing the transferors name, address, tag number if available, license number, date of transfer, and transferor's signature, verifying that the information is true and accurate. A copy of the record shall be retained by the transferee for the life of the wild animal or wild bird.

(g) Non-releasable wildlife lawfully held under a captivity license for rehabilitation pursuant to Rule.1403 of this Section, except for white-tailed deer fawn, may be transferred to a captivity license for holding wildlife under the following conditions:

- (1) A North Carolina licensed veterinarian submits a written recommendation stating the reason or reasons why the wild animal or wild bird cannot be released into the wild. The explanation shall include a description of the incapacitation of the animal and a detailed explanation of why the animal will not experience chronic pain from its condition or injuries;
- (2) The Commission authorizes the transfer and continued possession of the wild animal or wild bird; and
- (3) The individual holding the captivity license for holding wildlife shall not be the same individual as the one holding the captivity license for wildlife rehabilitation for that specific animal.

(h) Non-Farmed Cervids:

- (1) It is unlawful to hold any non-farmed cervids under a captivity licenses for holding wildlife, except for animals being held under a valid captive cervid license issued prior to September 30, 2015 that are not farmed cervids, as specified by G.S. 106-549.97.
- (2) The following conditions apply to non-farmed cervid licenses issued prior to September 30, 2015:
 - (A) no reproduction within the existing herd.
 - (B) no new non-farmed cervids may be added to the existing herd from the wild or from farmed cervids held under the North Carolina Department of Agriculture and Consumer Services farmed cervid program.
 - (C) the escape of any non-farmed cervid from the facility shall be reported to the Commission within one hour of discovery. The license holder shall request a permit to take the escaped non-farmed cervid pursuant to the terms of the permit. The dead cervid shall be submitted by the license holder to an approved laboratory for Chronic Wasting Disease (CWD) testing, unless the Commission determines that the risk of CWD transmission as a result of this escape is negligible.
 - (D) the Commission shall be notified within 24 hours if any non-farmed cervid within the facility exhibits clinical symptoms of CWD, as described on the CWD Alliance website at www.cwd-info.org, or if a quarantine is placed on the facility by the State Veterinarian. All non-farmed cervids that exhibit symptoms of CWD shall be tested for CWD.
 - (E) the carcass of any non-farmed cervid that was six months or older at time of death shall be submitted by the license holder to an approved laboratory and tested for CWD within 48 hours of knowledge of the cervid's death, or by the end of the next business day, whichever is later. The Commission-issued ear tag shall not be removed from the cervid's head prior to submitting the head for CWD testing.
 - (F) the license holder shall make all records pertaining to tags, licenses, or permits issued by the Commission available for inspection by the Commission upon request, during the facility's business hours, or at any time

- (G) an outbreak of CWD is suspected or confirmed within five miles of the facility or within the facility itself. the license holder shall make all licensed facilities, enclosures and the record-book(s) documenting required monitoring of the outer fence of the enclosure(s) at each licensed facility, available for inspection by the Commission upon request, during the facility's business hours, or at any time an outbreak of CWD is suspected or confirmed within five miles of the facility or within the facility itself.
- (H) the fence surrounding the enclosure shall be inspected by the license holder once a week to verify its stability and to detect the existence of any conditions or activities that threaten its stability. In the event of severe weather or any other condition that presents potential for damage to the fence, inspection shall occur every three hours until cessation of the threatening condition, except that no inspection is required under circumstances that threaten the safety of the person conducting the inspection and inspections shall resume as soon as possible.
 - (i) a record-book shall be maintained to record the time and date of each inspection of the fence, the name of the person who performed the inspection of the fence, and the condition of the fence at time of inspection. The person who performs the inspection shall enter the date and time of detection and the location of any damage threatening the stability of the fence. If the fence is damaged, the license holder shall record a description of measures taken to prevent ingress or egress by non-farmed cervids. Each record-book entry shall bear the signature or initials of the license holder attesting to the veracity of the entry. The record-book shall be made available for inspection by a representative of the Commission upon request, or during the facility's business hours.

- (ii) any opening or passage through the enclosure fence shall, within one hour of detection, be sealed or otherwise secured to prevent a non-farmed cervid from entry or escape. Any damage to the enclosure fence that threatens its stability shall be repaired within one week of detection.
- (I) each non-farmed cervid held under this license must be tagged as follows:
 - (i) a single button ear tag provided by the Commission shall be permanently affixed by the license holder onto either the right or left ear of each non-farmed cervid, provided that the ear chosen to bear the button tag shall not also bear a bangle tag, so that each ear of the cervid bears only one tag.
 - (ii) a single bangle ear tag provided by the Commission shall be permanently affixed by the license holder onto the right or left ear of each non-farmed cervid, provided that the ear bearing the bangle tag does not also bear the button tag, so that each ear of the cervid bears only one tag.
 - (iii) once a tag is affixed in the manner required by this Rule, it shall not be removed.
- (J) a permit to transport non-farmed cervids may be issued by the Commission to an applicant for the purpose of transporting the animal(s) for export out of State, to a slaughterhouse for slaughter, between non-farmed cervid facilities covered by this Rule, or to a veterinary medical facility for treatment provided that the animal for which the permit is issued does not exhibit clinical symptoms of CWD. Application for a transportation permit shall be made to the Commission by completing and submitting the non-farmed cervid transportation form as detailed in Rule .1406 of this Section. Any person transporting a non-farmed cervid shall present the transportation permit to any law enforcement officer or any representative of the Commission upon request, except that a person

transporting a non-farmed cervid by verbal authorization for veterinary treatment shall provide the name of the person who issued the approval to any law enforcement officer or any representative of the Commission upon request.

(i) Black Bear:

- (1) In accordance with G.S. 19A-10 and G.S. 19A-11, no captivity license may be issued for a black bear, except to:
 - (A) a publicly operated zoo; or
 - (B) an educational institution; or
 - (C) a research facility; or
 - (D) a facility holding a black bear under conditions simulating natural habitat pursuant to Rule .1402(b)(6)(B) of this Section.
- (2) No individual shall transport black bear for any purpose without first obtaining a transportation permit from the Commission.

(j) Cougar:

- (1) In accordance with G.S. 113-272.5, no captivity license may be issued for a cougar, except to:
 - (A) a publicly operated zoo; or
 - (B) a research institution; or
 - (C) a facility holding a cougar under conditions simulating a natural habitat pursuant to Rule .1402(b)(7)(B) of this Section.

Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-272.6.

15A NCAC 10H .1405 CAPTIVITY LICENSE REVOCATION AND ENFORCEMENT

(a) Representatives from the Commission shall be permitted to enter the premises of any license holder's facility upon request or during the facility's business hours for inspection, or scientific purposes.

(b) The Executive Director of the Commission, or his designee, may issue a warning or revoke a license holder's captivity license for wildlife rehabilitation or a captivity license for holding wildlife, if the license holder violates any provision of Article 47 of Chapter 14 of the North Carolina General Statutes, or Subchapter IV of Chapter 113 of the North Carolina General Statutes, or any Rules promulgated under this Chapter or any conditions of the license. The determination whether to issue a warning or revoke a captivity license for rehabilitation or holding shall be based upon the seriousness of the violation. Violations may include:

- (1) A conviction under Article 47 of Chapter 14, "Animal Cruelty", of the North Carolina General Statutes;
- (2) Violating a captivity license rule or failing to comply with captivity license conditions;
- (3) failing to provide required facilities for the housing of wildlife as specified in Rule .1402 of this Section;

- (4) Failing to provide accurate information on records or license applications submitted to the Commission;
- (5) Possessing wildlife not permitted by the captivity license for wildlife rehabilitation, or a captivity license for holding wildlife;
- (6) Exhibiting wildlife undergoing rehabilitation or using wildlife undergoing rehabilitation for public education, profit, or science involving contact with people;
- (7) Failing to comply with monitoring or record-keeping requirements as provided by rules of this Section;
- (8) Taming, imprinting, habituating, or improperly handling wildlife;
- (9) Failing to treat conditions that warrant medical attention;
- (10) Releasing a captive wild animal or wild bird held under a captivity license for holding into the wild or allowing it to range free outside of its enclosure; or
- (11) The license holder of a facility holding captive cervid(s) failing to:
 - (A) comply with tagging requirements as provided by rules of this Section;
 - (B) comply with requirements for maintaining the enclosure fence as provided by rules of this Section; or
 - (C) allow the Commission to inspect the facility or records as provided by rules of this Section.

(c) If an animal is unlawfully possessed or the Commission revokes a captivity license for wildlife rehabilitation or holding, then the Commission may seize and determine future treatment of the wildlife, to include release, relocation, or euthanasia.

(d) The Commission shall revoke a non-farmed cervid license, and the holder of that license shall forfeit the right to keep non-farmed cervids and be required to turn the animals over to a representative of the Commission upon request of the Commission, under any of the following circumstances or conditions:

- (1) The license holder of a facility fails to submit a cervid carcass to an approved laboratory for testing for Chronic Wasting Disease within 48 hours of knowledge of that cervid's death or close of the next business day, whichever is later, as provided by rule(s) in this Section;
- (2) A cervid has been transported without a permit; or
- (3) Chronic Wasting Disease has been confirmed in a cervid at that facility.

Authority G.S. 106-549.97(b); 113-134; 113-137; 113-140; 113-272.5; 113-274; 113-276.2.

15A NCAC 10H .1406 FORMS FOR CAPTIVITY LICENSES

(a) Individuals interested in obtaining a captivity license for wildlife rehabilitation shall apply to the Commission using the

Captivity License for Wildlife Rehabilitation Form available at www.ncwildlife.org. Information supplied by the applicant shall include:

- (1) Applicant's name, mailing address, residence address, telephone number, and date of birth;
- (2) Facility site address;
- (3) Organizational affiliation, if applicable;
- (4) Categories of animals and birds to be rehabilitated;
- (5) A copy of a valid Federal Migratory Bird Permit, if applicable;
- (6) Proof of completing the general wildlife rehabilitation examination, if applicable, within the previous five years; and
- (7) Proof of completing the deer fawn and elk calf rehabilitation examination, if applicable, within the previous five years.

(b) Individuals interested in obtaining a captivity license for holding shall apply to the Commission using the Captivity License for Holding Form available at www.ncwildlife.org. Information supplied by the applicant shall include:

- (1) Applicant's name, mailing address, residence address, telephone number, and date of birth;
- (2) Facility site address;
- (3) Organizational affiliation, if applicable;
- (4) Species information including quantity and source for all animals to be held; and
- (5) Purpose of animals held in captivity.

(c) Individuals requesting a transportation permit for non-farmed cervids shall apply to the Commission using the Non-farmed Cervid Transportation Form available at www.ncwildlife.org. Information supplied by the applicant shall include:

- (1) Applicant's name, mailing address, residence address, and telephone number;
- (2) Facility site address;
- (3) Captivity license number;
- (4) Species and sex of each non-farmed cervid transported;
- (5) Tag number(s) for each non-farmed cervid transported;
- (6) Date of transportation;
- (7) Vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the non-farmed cervid;
- (8) Name, address, county and phone number of the destination facility to which the non-farmed cervid will be transported;
- (9) Symptoms for which the non-farmed cervid requires veterinary treatment, if applicable;
- (10) Date of slaughter, if applicable;
- (11) Name and location of the North Carolina Department of Agriculture Diagnostic lab where the head of the non-farmed cervid is to be submitted for CWD testing, if applicable.

(d) All forms shall be signed, dated, and submitted to the Wildlife Resources Commission with applicable fees mandated by G.S. 113-272.5 and 113-270.1B.

Authority G.S. 113-134; 113-272.5.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 10 – BOARD OF CHIROPRACTIC EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Chiropractic Examiners intends to amend the rules cited as 21 NCAC 10 .0202, .0203, .0205, .0206, and .0213.

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

Proposed Effective Date: February 1, 2018

Public Hearing:

Date: October 23, 2017

Time: 6:00 p.m.

Location: NC Board of Examiners, 6070 Six Forks Road, Suite L, Raleigh, NC 27615

Reason for Proposed Action: The reasons for amending the existing rules are to allow greater use of the Board's website for filing applications and paying fees, to make the language of rules gender neutral, to clarify renewal deadlines and procedures, and to give greater flexibility in scheduling licensure and certification examinations. In addition, an amendment to Rule 21 NCAC 10 .0206 would allow greater use of the Board's website for filing applications and paying fees, provide greater flexibility in scheduling examinations, clarify renewal deadlines and procedures, and increase the amount of the annual renewal fee for radiation technologists from \$20 to \$30. An amendment to Rule 21 NCAC 10 .0213 would increase the renewal fee for clinical assistants from \$10 to \$25.

Comments may be submitted to: Tom R. Sullivan, Executive Director, NC Board of Chiropractic Examiners, 6070 Six Forks Road, Suite L, Raleigh, NC 27615

Comment period ends: December 1, 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 CHIROPRACTIC

21 NCAC 10 .0202 APPLICATION FOR LICENSURE

(a) General. Application for licensure shall be made in writing upon forms provide by the Board. The secretary shall furnish the necessary forms to prospective applicants upon request. Application forms and instructions may be found on the Board's website, www.ncchiroboard.com.

(b) Description of Forms. The written application shall consist of two forms, the Application Form and the Character Reference Form. The following information shall be required to complete each form:

- (1) Application Form: personal background of the applicant; his educational history; a recent photograph; and a statement confirming that he the applicant has read, understands, and will abide by the General Statutes and administrative rules governing chiropractic.
(2) Character Reference Form: the statements of three persons not related to the applicant attesting to his the applicant's good moral character.

(c) Deadlines for Filing Applications. Applications for the North Carolina examination must shall be received at the Board office of the Board no later than 15 days before the scheduled next examination dates date as provided in 21 NCAC 10 .0203(b). Rule .0203(b) of this Chapter.

(d) Application Fee. A non-refundable application fee of three hundred dollars (\$300.00) must shall accompany each application. This fee shall be paid in cash, or by certified check or money order made payable to the North Carolina Board of Chiropractic Examiners. Personal checks shall not be accepted. may be paid by credit card through the Board's website, www.ncchiroboard.com, or by check made payable to the North Carolina Board of Chiropractic Examiners. Cash shall not be accepted.

Authority G.S. 90-142; 90-143; 90-143.1; 90-145; 90-146; 90-149.

21 NCAC 10 .0203 NORTH CAROLINA EXAMINATION

(a) Eligibility. Only those applicants who meets the requirement of this Rule and G.S. 90-143, or in the case of reciprocity applicants, G.S. 90-143.1, and who have submitted a timely and complete written application and paid the non-refundable application fee pursuant to 21 NCAC 10 .0202 Rule .0202 of this Section shall be allowed to take the North Carolina examination.

(b) Dates of Examination. The North Carolina examination shall be given ~~four times at least once~~ each year, ~~on the fourth Saturday in January, April, July and October.~~ and additional examination dates may be scheduled based on the number of applications received. The Board shall announce an examination date not less than 90 days in advance, and the date, time and location of upcoming examinations shall be published on the Board's website, www.ncchiroboard.com. Eligible applicants shall be notified. The Board shall also individually notify an eligible applicant of the exact date, time and location of the next examination as soon as possible after their written applications have been approved by the Board. The applicant's non-refundable application fee has been paid and the written application completed.

(c) National Boards. Except as provided in Paragraph (e) of this Rule, in order to take the North Carolina examination, an applicant who has never been licensed in this state or who is not a reciprocity applicant shall first achieve a score of 375 or higher on each of the following examinations given by the National Board of Examiners: Part I, Part II, Part III (WCCE) and the elective examination (termed "Physiotherapy" by the National Board). In addition, the applicant shall achieve a score of 475 or higher on Part IV of the National Board examination.

(d) Report of Scores. The applicant shall arrange for his or her test results from any National Board examination to be reported to the North Carolina Board in a timely manner. Failure to comply with this provision shall be a basis for delaying the issuance of a license.

(e) Waiver of National Boards. The Board recognizes that many established practitioners completed their professional education prior to the introduction of one or more National Board examinations. Notwithstanding the requirements of Paragraph (c) of this Rule, an applicant who submits National Board examinations in conformity with the following schedule shall not be disqualified from licensure in North Carolina:

- (1) ~~If the An~~ applicant who graduated from chiropractic college before July 1, ~~1966,~~ 1966 ~~he~~ shall not be required to submit a score from any National Board examination;
- (2) ~~If the An~~ applicant who graduated from chiropractic college between July 1, 1966 and June 30, ~~1986,~~ 1986 ~~he~~ shall be required to submit scores of 375 or higher on National Board Part I, Part II, and the elective examination termed "Physiotherapy"; ~~"Physiotherapy"~~ but ~~he~~ shall not be required to submit a score on Part III (WCCE) or Part IV.
- (3) ~~If the An~~ applicant who graduated from chiropractic college between July 1, 1986 and June 30, ~~1997,~~ 1997 ~~he~~ shall be required to submit scores of 375 or higher on National Board Part I, Part II, the elective examination termed "Physiotherapy" and Part III ~~(WCCE);~~ (WCCE) but ~~he~~ shall not be required to submit a score on Part IV.

In order to receive a license, an applicant who qualifies for a waiver of any National Board score must shall take and pass the SPEC examination and the North Carolina Examination and satisfy all other requirements for licensure.

(f) SPEC Examination. In order to take the North Carolina examination, a reciprocity applicant, a waiver applicant pursuant to Paragraph ~~(d)~~ (e) of this Rule, or an applicant previously licensed in this State whose license has been cancelled pursuant to G.S. 90-155 for more than 180 days ~~must shall~~ first take and pass the Special Purpose Examination for Chiropractic ("SPEC").

(g) Nature of Examination. The North Carolina examination is a written test of an applicant's knowledge of North Carolina chiropractic jurisprudence. No part of the examination is open-book, and no reference material of any kind shall be allowed in the examination area. The passing grade is ~~75.~~ 75 percent.

(h) Review of ~~Examination Results.~~ Examination. An applicant who has ~~been denied licensure because he~~ failed the North Carolina examination may request a review of his or her answers provided his examination if the request is made in writing and received by the Secretary Board not later than 20 days after issuance of the examination results. Unless the applicant specifically requests to review his or her answers in person, the review shall be limited to a re-tabulation of the applicant's score to make certain no clerical errors were made in grading. If the applicant requests to review his or her answers in person, ~~he~~ the applicant shall be permitted to do so at the Board office ~~of the Board~~ in the presence of a representative of the Board and for a period of not more than 30 minutes. The applicant shall not be permitted to discuss his the examination with any member of the Board, grader or test administrator.

Authority G.S. 90-142; 90-143; 90-143.1; 90-144; 90-145; 90-146.

21 NCAC 10 .0205 RENEWAL OF LICENSE

(a) General. The renewal, cancellation, and restoration of a license are governed by ~~G.S. 90-155.~~ G.S. 90-155 and this Rule. A current license that is not renewed shall be automatically cancelled 30 days after the Tuesday immediately following the first Monday in January of the ensuing year. A licentiate desiring license renewal shall submit to the Board, on or before the date of automatic cancellation, a completed license renewal form accompanied by the renewal fee as provided in Paragraph (g) of this Rule. The preferred method of payment for the renewal fee is by credit card through the Board's website, www.ncchiroboard.com. The Board shall accept checks made payable to the North Carolina Board of Chiropractic Examiners but shall not accept cash.

(b) License Renewal Notification and Form. On or about ~~December 1st~~ October 15th each year, the Board shall mail to each licentiate, at the licentiate's current office address on file with the Board, an individualized a license renewal form with renewal instructions. A secure electronic version of the form shall also be available at www.ncchiroboard.com. The license renewal form with instructions shall also be available at the Board's website, www.ncchiroboard.com, or upon request at the Board's office. A licentiate desiring license renewal shall note on the form any changes in name, address, specialty, employment circumstances, and history of criminal convictions, convictions since the last renewal form was submitted to the Board. The licentiate shall also note continuing education obtained as set forth in Paragraph (e) of this Rule. on the form any professional development continuing education for which the licentiate seeks credit pursuant to Rule

~~.0210(d) of this Section. The licentiate shall submit the completed form and the renewal fee prescribed in Paragraph (d) of this Rule to the Board before the deadline imposed by G.S. 90-155.~~

~~(c) Continuing Education. The license renewal form issued by the Board shall recite the cumulative hours of continuing education reported to the Board and credited to the individual licentiate for the current year. If the licentiate wishes to receive credit for continuing education obtained but not reported to the Board, the licentiate shall note on the license renewal form the name, date, sponsor, and duration of any unreported educational session. The Board shall not award credit for the session until the sponsor confirms the licentiate's attendance or participation. The licentiate shall note on the license renewal form any professional development continuing education for which the licentiate seeks credit pursuant to 21 NCAC 10 .2109d). As used in G.S. 90-155, one "day" of continuing education shall be defined as nine hours. Any licentiate seeking a hardship waiver of the continuing education requirement shall make written application to the Board explaining the nature and circumstances of the hardship. Upon the applicant's showing that timely compliance with the continuing education requirement poses an undue hardship, the Board, in its discretion, may waive the requirement in whole or part or grant an extension of time within which to comply. "Undue hardship" includes protracted medical illness, natural disaster, or extended absence from the United States. Except as provided in Paragraphs (d), (e) and (f) of this Rule, a licentiate seeking license renewal shall obtain eighteen hours ("two days") of Board-approved continuing education each calendar year. At least ten hours shall be obtained by attending in-person educational sessions. As many as eight hours may be obtained in the manner set forth in Rule .0210 of this Section. The Board has created a secure portal on its website to help licentiates keep track of continuing education hours earned over the course of the year. The Board also maintains a list of approved continuing education courses on its website. The Board shall not award credit for any continuing education hours until the sponsor or licentiate submits to the Board the sponsor's certificate of attendance or course completion.~~

~~(d) First-Year Continuing Education Exemptions. A licentiate who was enrolled in chiropractic college at any time during the year of initial licensure or a licentiate initially licensed after September 1st of the current year shall be permitted to renew his or her license for the ensuing year without obtaining continuing education but shall be required to submit a license renewal form and pay the renewal fee. In subsequent years, a licentiate shall not be permitted to renew his or her license until the continuing education requirements set forth in Paragraph (c) of this Rule are satisfied.~~

~~(e) Hardship Waivers. A licentiate seeking a hardship waiver of the continuing education requirement shall make written application to the Board no later than December 15th of the current year explaining the nature and circumstances of the hardship. Upon the applicant's showing that timely compliance with the continuing education requirement poses an undue hardship, the Board, in its discretion, may waive the requirement in whole or part or grant an extension of time within which to comply. "Undue hardship" includes protracted medical illness, natural disaster, or extended absence from the United States.~~

~~(f) Military Hardship. A licentiate who is serving in the armed forces of the United States and to whom G.S. 93B-15(a) grants an~~

extension of time to pay a renewal fee shall also be granted an identical extension of time to complete the continuing education required for license renewal.

~~(g) Renewal Fee. A renewal fee in the maximum amount allowed by G.S. 90-155 shall be paid by each licentiate applying for renewal.~~

~~(h) Restoration of Cancelled License; Evidence of Proficiency. In order to provide evidence of proficiency, any a former licentiate whose license has been cancelled for 180 or fewer days due to non-compliance with G.S. 90-155 shall be re-examined and shall pay the non-refundable application fee prescribed in 21 NCAC 10 .0202(d) Rule .0202(d) of this Section to cover the cost of re-examination. A former licentiate whose license has been cancelled for more than 180 days shall comply with Rule .0203(f) of this Section in addition to this Paragraph. Payment of the application fee shall not constitute payment of the statutory reinstatement fee. fee of twenty-five dollars (\$25.00) mandated by G.S. 90-155.~~

Authority G.S. 90-142; 90-155; 93B-15.

21 NCAC 10 .0206 CERTIFICATION OF RADIOLOGIC TECHNOLOGISTS

~~(a) In order to be certified competent pursuant to G.S. 90-143.2, a person employed in a chiropractic office whose duties include the production of x-rays or other diagnostic images must:~~

- ~~(1) Complete a Board approved course in radiologic technology. To be approved by the Board, a radiologic technology course shall be at least 50 hours in length and provide sufficient instruction in the five subjects set forth in G.S. 90-143.2 to enable its graduates to satisfy the standards of acceptable care governing the production of X rays; and~~
- ~~(2) Pass a proficiency examination administered by or under the authority of the Board of Examiners.~~

~~Application Procedure. After completing the education program described in Paragraph (b) of this Rule, a person desiring certification as a radiologic technologist shall complete an application form available on the Board's website (www.ncchiroboard.com) and pass a competency examination administered by or under the authority of the Board,~~

~~(b) Any person registered as "active" with the American Chiropractic Registry of Radiologic Technologists is deemed to have satisfied the educational requirements of Paragraph (a) of this Rule. Approved Education Programs. In order to be approved by the Board, a radiological technologist education program shall be at least 50 hours in length, of which at least six hours shall be in-person didactic training with an instructor or instructors who, based on education and experience, are deemed competent by the Board to teach the portion of the curriculum they have been assigned. The education program shall provide sufficient instruction in the five subjects set forth in G.S. 90-143.2 to enable its graduates to satisfy all applicable standards of care governing the production of X-rays. To obtain approval of an education program, the program sponsor shall submit to the Board, at least 60 days prior to the proposed starting date, all instructional~~

materials to be used in the program, including a syllabus of the didactic training, and a curriculum vitae for each instructor.

(c) A certificate of competency issued pursuant to G.S. 90-143.2 expires at the end of the calendar year in which it was issued but may be renewed upon a showing that the certificate holder completed six hours of Board approved continuing education in radiologic technology during the year. Any person whose initial certificate expires less than 12 months after issuance is not required to obtain continuing education until entering the second year of certification. A.C.R.R.T. Exemption. Any person registered as "active" with the American Chiropractic Registry of Radiologic Technologists is deemed to have satisfied the educational requirements of Paragraph (b) of this Rule.

(d) Any person seeking to renew a certificate of competency shall complete and submit the renewal application form provided by the Board of Examiners and pay to the Board a renewal fee in the amount of twenty dollars (\$20.00). Competency Examination. The competency examination shall be administered in person at least three times per year. The Board shall publish on its website, www.ncchiroboard.com, the date, time and location of the examination at least 90 days in advance. The Board may authorize additional testing sessions based on the number of applications received. The minimum passing score is 70 percent.

(e) Certificate Expiration and Renewal. A certificate of competency issued pursuant to G.S. 90-143.2 shall expire at the end of the calendar year in which it was issued but may be renewed upon a showing that the certificate holder completed six hours of Board-approved continuing education in radiologic technology during the year. A radiologic technologist whose initial certificate expires less than 12 months after issuance is not required to obtain continuing education until entering the second calendar year of certification but shall be required to pay the renewal fee at the end of the initial year of certification. A radiologic technologist seeking to renew a certificate of competency shall complete and submit the renewal application form available on the Board's website, www.ncchiroboard.com, and shall pay a renewal fee in the amount of thirty dollars (\$30.00). The preferred method of payment is by credit card through the Board's website. The Board shall accept checks made payable to the N.C. Board of Chiropractic Examiners but shall not accept cash.

(f) Displaying Certificate. The holder of a certificate issued pursuant to this Rule must shall display the certificate in the x-ray room of the chiropractic clinic in which the holder is employed in a location where the certificate may be easily viewed by patients.

(g) Compliance. Other than licensed doctors of chiropractic, only those persons maintaining current certifications of competency in conformity with this Rule may produce x-rays or other diagnostic images in chiropractic offices. A chiropractor who permits the production of x-rays or other diagnostic images by a non-certified employee or an employee whose certification has expired shall be deemed in violation of G.S. 90-154.3.

(h) Lapsed Certificates. If a certificate of competency has lapsed due to non-renewal and the lapse does not exceed 42 months, 60 days, the certificate holder may obtain reinstatement by demonstrating completion of six hours of Board-approved continuing education during or attributed to the preceding calendar year, and paying the renewal fee set forth in Paragraph (e) of this Rule. If the lapse is greater than 42 months, 60 days,

no make-up continuing education is required, but the certificate holder shall re-take and pass the ~~proficiency~~ competency examination described in Paragraph ~~(a)(2)~~ (d) of this Rule. Regardless of the length of lapse, any person seeking reinstatement of a lapsed certificate shall comply with Paragraph ~~(d)~~ (e) of this Rule.

Authority G.S. 90-143.2; 90-154.3.

21 NCAC 10 .0213 CERTIFICATION OF CLINICAL ASSISTANTS

(a) Classification of Applicants. The Board hereby establishes the following categories of applicants for clinical assistant competency certification. Different certification requirements apply to each category.

~~(1)~~ Grandfathered applicants. A "grandfathered applicant" is an applicant who is currently employed as a clinical assistant, who has been trained by the applicant's employing physician to perform the duties of a clinical assistant as defined in G.S. 90-143.4(a), and who shall have amassed at least 500 working hours in the capacity of a clinical assistant as of the effective date of this Rule. ~~(Note: this category is temporary; the opportunity to be grandfathered shall expire 120 days after the effective date of this Rule.)~~

~~(2)~~(1) Reciprocity applicants. A "reciprocity applicant" is an applicant who is currently certified or registered as a clinical assistant in another state whose requirements for certification or registration are substantially similar to or more stringent than the requirements for certification in North Carolina.

~~(3)~~(2) New applicants. A "new applicant" is any applicant who is not a grandfathered applicant or a reciprocity applicant.

(b) Requirements for Certification. Every applicant, regardless of classification, shall complete an application form ~~provided by the Board and~~ available on the Board's website (available at www.ncchiroboard.com) and submit evidence satisfactory to the Board that the applicant is at least 18 years of age, a high school graduate or the equivalent, and possessed of good moral character. A photocopy of the applicant's birth certificate, driver's license or government-issued identification card shall constitute prima facie evidence of the applicant's age. A photocopy of the applicant's high school diploma, transcript, or general equivalency diploma (G.E.D.) shall constitute prima facie evidence of the physician or other responsible party who knows the applicant and is not related to the applicant shall constitute prima facie evidence of the applicant's good moral character. Every applicant, regardless of classification, shall pay to the Board an initial certification fee in the amount of twenty dollars (\$20.00). The preferred method of payment is by credit card through the Board's website. The Board shall accept checks made payable to the N.C. Board of Chiropractic Examiners but shall not accept cash. In addition to the ~~foregoing~~ general certification requirements, an applicant

shall satisfy the requirements for the applicant's individual category, as follows:

- (1) ~~Grandfathered Applicants.~~ A grandfathered applicant shall submit, on a form provided by the Board (available at www.ncchiroboard.com), an attestation signed by the applicant's employing physician confirming that the applicant is currently employed as a clinical assistant, has received sufficient on the job training, in the judgment of the employer, to perform the duties of a clinical assistant, and has amassed at least 500 hours of work experience in the capacity of a clinical assistant as of the effective date of this Rule. In addition, a grandfathered applicant shall take and pass a refresher proficiency examination administered by or under the authority of the Board, as described in Paragraph (d) of this Rule. (Note: grandfathered applications shall only be accepted for 120 days after the effective date of this Rule.)
- (2)(1) Reciprocity Applicants. A reciprocity applicant shall submit a copy of the applicant's current certification or registration as a clinical assistant in a state with which North Carolina reciprocates and shall also submit written confirmation from the state's certifying authority or registrar that the applicant is in good standing in said state.
- (3)(2) New Applicants. A new applicant shall submit evidence satisfactory to the Board that the applicant has completed an approved clinical assistant education program as described in Paragraph (c) of this Rule. A certificate of completion filed with the Board by the program sponsor shall constitute prima facie evidence that the applicant has obtained the required education. A new applicant shall also take and pass the standard proficiency examination administered by or under the authority of the Board, as described in Paragraph (d) of this Rule.

(c) Education Programs. In order to be approved by the Board, a clinical assistant education program for new applicants shall be at least 24 hours in length, of which at least six hours shall be in-person didactic training with an instructor or instructors who, based on education and experience, are deemed competent by the Board to teach the portion of the curriculum they have been assigned. Credit for online coursework shall not exceed 18 hours, and all online coursework shall precede didactic training. At a minimum, the education program shall provide sufficient instruction in the five subjects set forth in G.S. 90-143.4(c) to enable its graduates to satisfy all applicable standards of care. To obtain approval of an education program, the program sponsor shall submit to the Board, at least ~~30~~ 60 days prior to the proposed starting date, all instructional materials to be used in the program, including a syllabus of the didactic training, and a curriculum vitae for each instructor.

(d) Examinations. ~~The refresher proficiency examination shall emphasize the practical skills possessed by grandfathered applicants and shall be available online.~~ The standard proficiency examination for new applicants shall assess both academic knowledge and practical skills acquired through education programs and shall be administered in person at least four times per year on the fourth Saturday in January, April, July and October, dates and at locations to be announced by the Board at least 90 days in advance and published on the Board's website, www.ncchiroboard.com, on the fourth Saturday in January, April, July and October. In its discretion, the Board may authorize additional testing sessions based on the number of applications received. The minimum passing score on the examination is 75 percent. (Note: ~~the refresher proficiency examination for grandfathered applicants shall be discontinued 120 days after the effective date of this Rule.~~)

(e) Certificate Expiration and Renewal. Unless renewed, a certificate of competency shall expire on June 30th of the ~~second~~ third year following the year in which it was issued. A certificate holder seeking to renew shall complete a renewal application form provided by the Board (available at www.ncchiroboard.com) and shall submit evidence satisfactory to the Board that the applicant has completed six hours of Board-approved continuing education. A certificate of attendance or completion issued by the course sponsor and filed with the Board ~~by the program sponsor~~ shall constitute *prima facie* evidence that the applicant has completed the number of hours recited in the certificate. The applicant shall pay to the Board a renewal fee in the amount of ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00). The preferred method of payment is by credit card through the Board's website. The Board shall accept checks made payable to the N.C. Board of Chiropractic Examiners but shall not accept cash.

(f) Lapsed Certificates. If a certificate of competency has lapsed due to non-renewal and the lapse does not exceed ~~12 months, 60 days,~~ 60 days, the certificate holder may obtain reinstatement by making up the accrued deficiency in continuing education. If the lapse is greater than ~~12 months, 60 days,~~ 60 days, no make-up continuing education shall be required, but the certificate holder shall re-take and pass the ~~standard~~ proficiency examination for new applicants. Regardless of the length of lapse, a certificate holder seeking reinstatement shall pay ~~to the Board a~~ the renewal fee ~~in the amount of ten dollars (\$10.00); set forth in Paragraph (e) of this Rule.~~

(g) Exemptions. Graduates of accredited chiropractic colleges and students enrolled in accredited chiropractic colleges who are serving college-sponsored preceptorships in North Carolina are deemed by the Board to have satisfied all requirements imposed by this Rule and are declared competent to perform the duties of a clinical assistant. Any person who qualifies for exemption and who works as a clinical assistant in this state for more than ~~120~~ 180 days shall submit an application form to the Board asserting exempt status (form available at www.ncchiroboard.com) but shall not be required to ~~submit~~ pay a certification fee.

Authority G.S. 90-142; 90-143.4.

CHAPTER 25 – INTERPRETER AND
TRANSLITERATOR LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Interpreter and Transliterators Licensing Board intends to readopt without substantive changes the rule cited as 21 NCAC 25 .0205.

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

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

Proposed Effective Date: *March 1, 2018 Note: This is a re-adoption after periodic rules review. The Rule is already in effect.*

Public Hearing:

Date: *October 27, 2017*

Time: *10:00 a.m.*

Location: *Paragon Bank Training Room, 3535 Glenwood Ave, Raleigh, NC*

Reason for Proposed Action: *Re-adoption after having received public comment while amending the Rule within two years of the scheduled periodic rules review. There were no public comments pertaining to this Rule received by the Board specifically during the periodic review. Rather, the only comments received on the Rule were during the amendment of it some months before periodic review. The Rule provides a procedure for granting provisional licenses, which are allowed by G.S. 90D-8 ("Provisional License").*

Comments may be submitted to: *Ms. Caitlin Schwab-Falzone, Board Administrator, NCITLB, PO Box 20963, Raleigh, NC 27619; email ncitlb@caphill.com*

Comment period ends: *December 5, 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
- No fiscal note required by G.S. 150B-21.3A(d)(2)

SECTION .0200 – LICENSING

**21 NCAC 25 .0205 RENEWAL OF A PROVISIONAL
LICENSE (READOPTION WITHOUT SUBSTANTIVE
CHANGES)**

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on August 17, 2017 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

ADMINISTRATION, DEPARTMENT OF

Impoundment and Removal 01 NCAC 04A .0201* 31:12 NCR

AGRICULTURE, BOARD OF

Soil Testing Service 02 NCAC 37 .0201 31:15 NCR

Plant Analysis Service 02 NCAC 37 .0202* 31:15 NCR

TOBACCO TRUST FUND COMMISSION

Policy 02 NCAC 57 .0101 31:22 NCR

Authorization 02 NCAC 57 .0102 31:22 NCR

Definitions 02 NCAC 57 .0103* 31:22 NCR

Purpose 02 NCAC 57 .0201 31:22 NCR

Types of Programs 02 NCAC 57 .0202 31:22 NCR

Eligibility to Receive Grants 02 NCAC 57 .0203 31:22 NCR

Applications for Grants 02 NCAC 57 .0204* 31:22 NCR

Special Information Needed for Direct Compensatory Programs 02 NCAC 57 .0205* 31:22 NCR

Review of Proposals 02 NCAC 57 .0207* 31:22 NCR

Award of Grants 02 NCAC 57 .0208 31:22 NCR

Reporting 02 NCAC 57 .0209 31:22 NCR

Policies Governing Compensatory Programs 02 NCAC 57 .0210 31:22 NCR

Purpose 02 NCAC 57 .0301 31:22 NCR

Eligibility to Receive Grants 02 NCAC 57 .0302 31:22 NCR

The Primary Beneficiary 02 NCAC 57 .0303 31:22 NCR

Applications for Grants 02 NCAC 57 .0304 31:22 NCR

Review of Proposals 02 NCAC 57 .0306 31:22 NCR

Award of Grants 02 NCAC 57 .0307 31:22 NCR

Reporting 02 NCAC 57 .0308 31:22 NCR

Policies Governing Qualified Agricultural Program Grants 02 NCAC 57 .0309 31:22 NCR

COMMERCE - EMPLOYMENT SECURITY, DIVISION OF

Address Changes and Electronic Address Changes 04 NCAC 24A .0102* 31:21 NCR

Addresses for Notice and Electronic Notice 04 NCAC 24A .0103* 31:21 NCR

Addresses for Filing Claims, Appeals, Exceptions, Request... 04 NCAC 24A .0104* 31:21 NCR

Definitions 04 NCAC 24A .0105* 31:21 NCR

Power of Attorney 04 NCAC 24A .0109* 31:21 NCR

Limitation on Authority Granted by Power of Attorney 04 NCAC 24A .0110* 31:21 NCR

Request for Separation Information from Employer 04 NCAC 24B .0402 31:21 NCR

Notice Requirement for Overpayment 04 NCAC 24B .0601* 31:22 NCR

NDNH Claimant Notice 04 NCAC 24B .1101* 31:22 NCR

NDNH Employer Notice 04 NCAC 24B .1102* 31:22 NCR

APPROVED RULES

<u>Claimant Response for Employment and Wage Information</u>	04 NCAC 24B .1103	31:22 NCR
<u>Employer Response to Request for Employment and Wage Info...</u>	04 NCAC 24B .1104*	31:22 NCR
<u>Appeals Hearing Notice</u>	04 NCAC 24C .0204	31:21 NCR
<u>Telephone Hearings</u>	04 NCAC 24C .0205*	31:22 NCR
<u>Requirements for Requesting Noncharging of Benefit Payments</u>	04 NCAC 24D .0103	31:22 NCR
<u>Requirements for Filing Protests to List of Charges</u>	04 NCAC 24D .0202	31:22 NCR
<u>Grounds for Protesting List of Charges</u>	04 NCAC 24D .0203	31:22 NCR
<u>Determination on Grounds Contained in Protest</u>	04 NCAC 24D .0205	31:22 NCR
<u>Adequacy Threshold Determination</u>	04 NCAC 24D .0302*	31:22 NCR
<u>Adequacy Penalty Determination</u>	04 NCAC 24D .0303*	31:22 NCR
<u>Appealing Adequacy Penalty Determination</u>	04 NCAC 24D .0304*	31:22 NCR

NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF

<u>Borrowing Privileges</u>	07 NCAC 02H .0107*	31:21 NCR
<u>Registration</u>	07 NCAC 02H .0108*	31:21 NCR
<u>Restriction and Suspension of Privileges</u>	07 NCAC 02H .0109	31:21 NCR

INSURANCE, DEPARTMENT OF

<u>Purpose</u>	11 NCAC 05A .0501*	31:04 NCR
<u>Training Requirements</u>	11 NCAC 05A .0505*	31:04 NCR
<u>Apparatus</u>	11 NCAC 05A .0508*	31:04 NCR
<u>Six Mile Insurance District</u>	11 NCAC 05A .0511*	31:04 NCR

PUBLIC SAFETY, DEPARTMENT OF - BOXING AUTHORITY

<u>Weigh-Ins for Boxing</u>	14B NCAC 10 .0501*	31:21 NCR
<u>Weigh-Ins Mixed Martial Arts</u>	14B NCAC 10 .0801*	31:21 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Prevention of Significant Deterioration</u>	15A NCAC 02D .0530*	31:19 NCR
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COASTAL RESOURCES COMMISSION

<u>General Use Standards for Ocean Hazard Areas</u>	15A NCAC 07H .0306*	31:18 NCR
<u>Requesting the Development Line</u>	15A NCAC 07J .1301*	31:18 NCR

CEMETERY COMMISSION

<u>Report</u>	21 NCAC 07D .0101*	31:16 NCR
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ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS OF

<u>Production of Public Records</u>	21 NCAC 18B .0110*	31:19 NCR
<u>Requirements for All Examination Applicants</u>	21 NCAC 18B .0201*	31:19 NCR
<u>Experience</u>	21 NCAC 18B .0202*	31:19 NCR
<u>Examinations</u>	21 NCAC 18B .0204*	31:19 NCR
<u>Annual License Fees</u>	21 NCAC 18B .0404*	31:19 NCR
<u>Reclassification of Current License</u>	21 NCAC 18B .0501*	31:19 NCR
<u>Qualified Individual - Listing Options after Expiration</u>	21 NCAC 18B .0504*	31:19 NCR
<u>Qualified Individual - Initial Listing Options</u>	21 NCAC 18B .0505*	31:19 NCR

FUNERAL SERVICE, BOARD OF

<u>Practicing During Disasters</u>	21 NCAC 34B .0617	31:19 NCR
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TITLE 01 - DEPARTMENT OF ADMINISTRATION

- (5) Research plant, waste, soilless media, and solution analysis - \$12.00.
- (6) Nonresident plant, waste, soilless media, and solution analysis - \$25.00.
- (7) Special services:
 - (A) Heavy metals - \$20.00.
 - (B) Waste-N breakout - \$10.00.
 - (C) Waste-liming equivalent - \$10.00.
 - (D) Plant-chloride - \$2.00.
 - (E) Molybdenum - \$2.00.
 - (F) Plant-petiole nitrates - \$2.00.
 - (G) Bulk density - \$10.00.

01 NCAC 04A .0201 IMPOUNDMENT AND REMOVAL

(a) Any vehicle parked in violation of G.S. 143-340 or these rules shall be subject to impoundment and removal to a place of storage operated by a privately-owned garage or towing service, at the expense of the owner, pursuant to G.S. 143-340.

(b) If a call is made for towing services and the owner or operator of the vehicle to be towed returns to the unattended vehicle before the arrival of the towing vehicle, the vehicle shall not be released unless a service charge for answering such a call, if required by the towing service, is paid to the towing service by the owner or operator.

History Note: Authority G.S. 143-340(18),(19); Eff. February 1, 1976; Readopted Eff. February 27, 1979; Readopted Eff. September 1, 2017.

History Note: Authority G.S. 106-22(17); Eff. July 17, 1981; Temporary Amendment Eff. July 7, 1989 for a Period of 180 Days to Expire on January 2, 1990; Amended Eff. June 1, 1990; January 2, 1990; Temporary Amendment Eff. December 3, 2013; Amended Eff. June 1, 2014; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 19, 2015; Amended Eff. September 1, 2017.

TITLE 02 - DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

02 NCAC 37 .0201 SOIL TESTING SERVICE

The Agronomic Services Division shall analyze all samples for volume weight, pH, BpH, humic matter, phosphorus, potassium, calcium, magnesium, manganese, copper and zinc. The Agronomic Services Division shall make nutrient and management recommendations to correct deficiencies or toxicities by the application of lime, fertilizer, and other soil amendments.

History Note: Authority G.S. 106-22(17); Eff. July 17, 1981; Amended Eff. June 1, 1990; Agency did not readopt rule pursuant to G.S. 150B-21.3A by RRC established deadline of March 31, 2017; Readopted Eff. September 1, 2017.

02 NCAC 37 .0202 PLANT ANALYSIS SERVICE

(a) The Agronomic Services Division shall analyze all samples for nitrogen, phosphorus, potassium, calcium, magnesium, manganese, copper, zinc, boron and other elements, as needed to make recommendations for corrective action. Results of the test and recommendations for corrective action shall be provided by the Agronomic Services Division. For the purposes of this Rule, "plant analyses" shall include analysis of wastes, soilless media, and other solutions for agronomic purposes.

(b) Fees for these services, to be paid at the time of submission, shall be as follows:

- (1) Routine plant analysis - \$5.00.
- (2) Routine solution analysis - \$5.00.
- (3) Routine soilless media analysis - \$5.00.
- (4) Routine waste analysis - \$8.00.

02 NCAC 57 .0101 POLICY

The rules of this Chapter are to implement the Tobacco Trust Fund as set forth in Article 75 of G.S. 143. Applications for the following programs shall be submitted in accordance with the rules set forth in Section .0200 of this Chapter:

- (1) Compensatory programs as defined in G.S. 143-716(2); and
- (2) Qualified agricultural programs as defined in G.S. 143-716(6).

History Note: Authority G.S. 143-715; 143-718; Temporary Adoption Eff. May 15, 2002; Eff. April 15, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015; Amended Eff. September 1, 2017.

02 NCAC 57 .0102 AUTHORIZATION

History Note: Authority G.S. 143-715; 143-718; Temporary Adoption Eff. May 15, 2002; Temporary Adoption Eff. June 29, 2002; Eff. April 15, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015; Repealed Eff. September 1, 2017.

02 NCAC 57 .0103 DEFINITIONS

In addition to the definitions contained in G.S. 143-716, the following definitions apply to this Chapter:

- (1) Tobacco allotment. An amount of tobacco allowed to be grown on a tract of land;
- (2) Former Tobacco allotment holder. A person who, at the time of the Master Settlement Agreement owned a certain amount of tobacco quota on a tract of land, as determined by the U.S. Farm Service Agency records for the county in which the quota is located;
- (3) Tobacco producer or grower. A person or entity actively engaged in planting, growing, harvesting and marketing tobacco, or who shares in the expense of producing the crop, and for that reason is entitled to share in the revenues derived from marketing the crop;
- (4) Tobacco products. Cigarettes, cigars, smokeless tobacco, pipe tobacco, roll your own tobacco, or any other tobacco product sold at retail intended for human consumption; and
- (5) Tobacco-related segment of the State's agricultural economy. That part of the State's agricultural economy that includes tobacco producers, former tobacco allotment holders, persons who work on tobacco farms and tobacco auction-related workers or warehousemen, and others in tobacco-dependent communities as determined by the Commission in a grant or contract approval.

History Note: Authority G.S. 143-716; 143-718; Temporary Adoption Eff. May 15, 2002; Temporary Adoption Eff. June 29, 2002; Eff. April 15, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015; Amended Eff. September 1, 2017.

02 NCAC 57 .0201 PURPOSE
02 NCAC 57 .0202 TYPES OF PROGRAMS
02 NCAC 57 .0203 ELIGIBILITY TO RECEIVE GRANTS

History Note: Authority G.S. 143-718; 143-720; Temporary Adoption Eff. May 15, 2002; Eff. April 15, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015. Repealed Eff. September 1, 2017.

02 NCAC 57 .0204 APPLICATIONS FOR GRANTS

- (a) The Commission shall designate specific dates for submission of grant applications. Grant application submission dates shall be announced in the call for proposals on the Commission website, <http://tobaccotrustfund.org> not less than 30 days before the application is due.
- (b) Grant applications shall be printed and an original and four copies timely submitted to the Commission by hand-delivery, by

a designated delivery service authorized pursuant to G.S. 1A-1, Rule 4, or by U.S Mail, or online portal. Applications shall be timely submitted as follows:

- (1) if delivered to the Commission's physical office by the end of the business day on designated date announced in the call for proposals;
- (2) if delivered by designated delivery service, which package bears a shipping date on or before the submission date;
- (3) if placing into the U.S. Mail, addressed to 1080 Mail Service Center, Raleigh, NC 27699 and postmarked on or before the submission date; or
- (4) submitted through online portal by due date.

(c) To be considered for funding, applicants shall complete the Tobacco Trust Fund Grant Application Form which shall contain the following information:

- (1) names, mailing addresses, telephone numbers, and signatures of the applicant;
- (2) if the applicant is an organization, consortium, cooperative, or other entity representing multiple eligible beneficiaries, a description of the applicants, organizational history, mission statement, fiscal information, audit statements (if available), organizational goals, and members of the Board of Directors. If the applicant involves more than one organization, person, or entity, it shall identify participating organizations, persons, or entities and define their roles in completing the project;
- (3) a description of the project, its goals and objectives, and measurable outcomes, including the following:
 - (A) for Compensatory Programs: how the applicant shall quantify actual losses due to the Master Settlement Agreement that are not compensated by payments from the National Tobacco Grower Settlement Trust; or
 - (B) for Qualified Agricultural Program (QAP): how the applicant shall provide the manner in which the project will foster the vitality and solvency of the tobacco-related segment of the State's agricultural economy;
- (4) a statement of the projected cost of the project, including any administrative costs and including expected funding from any other source;
- (5) a description of how the project will be completed including time lines;
- (6) explanation of how the project's results will be evaluated;
- (7) at least two references who may be contacted by the Commission;
- (8) any other information required by G.S. 143, Article 75 or these Rules in order to make a decision on the grant proposal; and

- (9) a list and history of the applicant's past projects funded by grants or awards.
- (d) Applicants shall also provide an electronic copy as directed with the application packet, if not submitted online.

History Note: Authority G.S. 143-718; 143-720; Temporary Adoption Eff. May 15, 2002; Eff. April 15, 2003; Amended Eff. December 1, 2008; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015; Amended Eff. September 1, 2017.

02 NCAC 57 .0205 SPECIAL INFORMATION NEEDED FOR DIRECT COMPENSATORY PROGRAMS

If a request is for direct compensation or indemnification or for a project to administer direct compensation or indemnification to an eligible beneficiary or beneficiaries, then the application for the Compensatory Program shall contain the following:

- (1) documentation demonstrating the amount of actual loss of tobacco-related income in North Carolina in 1998 or years subsequent. An applicant may make such demonstration with:
 - (a) a verified letter from a Certified Public Accountant or an attorney licensed in North Carolina that details the amount of the actual loss;
 - (b) that portion of a federal or state income tax return that shows a loss of tobacco-related income. Any documents submitted by the applicant shall be public record under Chapter 132 of the General Statutes;
 - (c) a verified statement from a North Carolina employer quantifying the applicant's loss in tobacco-related income in North Carolina for any given year from 1998 forward; or
 - (d) any other similar reliable, accurate, and verifiable documentation that the Commission may accept as proof of actual loss;
- (2) documentation demonstrating that the amount of actual loss of tobacco-related income is attributable to the Master Settlement Agreement and not because of a decline in quota not caused by the Master Settlement Agreement. Applicants may demonstrate the actual loss with verified information from an independent expert in the field, which expert may be an economist or an accountant. The Commission will compare this demonstration with any independent expert information it may have about losses caused by the Master Settlement Agreement and losses compensated by the National Tobacco Grower Settlement Trust; and
- (3) documentation of any compensation received from the National Tobacco Grower Settlement

Trust, or any other source to cover actual losses due to the Master Settlement Agreement, or a verified statement that no compensation was received from the National Tobacco Growers' Settlement Trust or from any other source to compensate losses caused by the Master Settlement Agreement.

History Note: Authority G.S. 143-718; 143-720; Temporary Adoption Eff. May 15, 2002; Eff. April 15, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015; Amended Eff. September 1, 2017.

02 NCAC 57 .0207 REVIEW OF PROPOSALS

- (a) The Commission staff or designee shall review applications to see if the application is complete. Commission staff shall notify applicants if the grant application is incomplete.
- (b) Applications that are complete will be forwarded to a Grant Review Committee of the Commission. Grant Review Committee members shall be Commissioners.
- (c) During the review and evaluation of proposals, the Commission staff and Grant Review Committee may solicit information from persons who have expertise in technical or specialized areas or request that the Commission staff or designee make reports on any site visits that may be required for consideration of the grant proposal. The Grant Review Committee shall make recommendations to the Commission based on its review and evaluation. Scoring and rating of proposals may be determined by using any consistent rating methodology, including adjectival, numerical, or ordinal rankings.
- (d) The Commission shall evaluate grant proposals and recommendations made to the Commission by the Grant Review Committee as follows:
 - (1) for Compensatory Programs set forth in G.S. 143-720; or
 - (2) for Qualified Agricultural Programs set forth in G.S. 143-721.
- (e) In making this evaluation the Commission may consider:
 - (1) who will benefit from the grant;
 - (2) how many will benefit from the grant;
 - (3) the cost of administering it;
 - (4) how the grant project will alleviate or avoid unemployment, stabilize local tax bases;
 - (5) encourage the economic stability of participants in the State's agricultural economy;
 - (6) encourage the optimal use of natural resources in the tobacco dependent economies or related segment of the State's agricultural economy in a measurable manner; or
 - (7) past performance of grants and publicly funded projects.
- (f) Proposals shall be given a preference for statewide impact, for containing a delivery mechanism to intended beneficiaries, for providing alternate markets for tobacco, or for providing for diversification of the tobacco crop or the tobacco grower.
- (g) No grant shall be awarded for a project that is unlawful under NC General Statutes.

*History Note: Authority G.S. 143-718; 143-720;
Temporary Adoption Eff. May 15, 2002;
Eff. April 15, 2003;
Amended Eff. December 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. October 24, 2015;
Amended Eff. September 1, 2017.*

02 NCAC 57 .0208 AWARD OF GRANTS

(a) The Commission shall award grants as fund are available. All applicants shall be notified in writing or other means of electronic communication upon completion of the selection process.
(b) Funds shall be conveyed to grantees through contracts with the Commission.
(c) If the Commission determines that grant funds are not being used for the purpose for which they were awarded, the Commission may cease making payments under the grant schedule in compliance with G.S. 143C-6-23 and 09 NCAC 03M .0401, which are hereby incorporated by reference, including subsequent amendments and editions.

*History Note: Authority G.S. 143-718;
Temporary Adoption Eff. May 15, 2002;
Temporary Adoption Eff. June 29, 2002;
Eff. April 15, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. October 24, 2015;
Amended Eff. September 1, 2017.*

02 NCAC 57 .0209 REPORTING

Program specific reporting requirements shall be conveyed to grantees through contractual agreements with the Commission in compliance with G.S. 143C-6-23 and 09 NCAC 03M .0401, which is hereby incorporated by reference, including subsequent amendments and editions.

*History Note: Authority G.S. 143-718;
Temporary Adoption Eff. May 15, 2002;
Eff. April 15, 2003;
Amended Eff. December 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. October 24, 2015;
Amended Eff. September 1, 2017.*

**02 NCAC 57 .0210 POLICIES GOVERNING
COMPENSATORY PROGRAMS**

*History Note: Authority G.S. 143-718;
Temporary Adoption Eff. May 15, 2002;
Eff. April 15, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. October 24, 2015;
Repealed Eff. September 1, 2017.*

**SECTION .0300 - QUALIFIED AGRICULTURAL
PROGRAM GRANTS**

**02 NCAC 57 .0301 PURPOSE
02 NCAC 57 .0302 ELIGIBILITY TO RECEIVE
GRANTS
02 NCAC 57 .0303 THE PRIMARY BENEFICIARY
02 NCAC 57 .0304 APPLICATIONS FOR GRANTS**

*History Note: Authority G.S. 143-716; 143-718;
Temporary Adoption Eff. May 15, 2002;
Eff. April 15, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. October 24, 2015;
Repealed Eff. September 1, 2017.*

**02 NCAC 57 .0306 REVIEW OF PROPOSALS
02 NCAC 57 .0307 AWARD OF GRANTS
02 NCAC 57 .0308 REPORTING
02 NCAC 57 .0309 POLICIES GOVERNING
QUALIFIED AGRICULTURAL PROGRAM GRANTS**

*History Note: Authority G.S. 143-718; 143-721;
Temporary Adoption Eff. May 15, 2002;
Eff. April 15, 2003;
Amended Eff. December 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. October 24, 2015;
Repealed Eff. September 1, 2017.*

TITLE 04 - DEPARTMENT OF COMMERCE

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

(a) Each employing unit that has or had individuals in employment as defined in G.S. 96-1 shall notify DES in writing of any change to its mailing address. This notice shall be transmitted by facsimile, via the internet, or by postal mail within seven days after the effective date of the change. All notices shall be submitted to the Tax Administration Section, Attn: Address Change by mail to Post Office Box 26504, Raleigh, North Carolina, 27611, facsimile to (919) 715-7194, or email to des.tax.customerservice@nccommerce.com.

(b) Each claimant with an active claim, or who is registered for work at a public employment office, shall notify DES in writing of any change in address or electronic mail address within seven days after the effective date of the change. All notices shall be submitted to the DES Customer Call Center, Attn: Address Change, by mail to Post Office Box 25903, Raleigh, NC 27611, facsimile to (919) 857-1296, or email to des.ui.customerservice@nccommerce.com. Claimants may also make and submit address and electronic address changes from their home page in the Southeast Consortium Unemployment Benefits Integration (SCUBI) system.

(c) Each claimant who is liable to DES for an overpayment of benefits, shall notify DES by facsimile, via the internet, or by postal mail of any change of address within seven days after the effective date of the change. All notices of overpayment address changes shall be submitted to the Benefits Integrity Unit, Attn: Overpayment Address Change by mail to Post Office Box 25903,

Raleigh, NC 27611, facsimile to, (919) 733-1369, or email to des.ui.bpc@nccommerce.com.

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

04 NCAC 24A .0103 ADDRESSES FOR NOTICE AND ELECTRONIC NOTICE

(a) In all transactions requiring notice by G.S. 96 or these Rules, DES shall provide notice to a claimant's or employer's last known address as reflected in its official records.

(b) Except as provided in this Chapter, DES shall mail notice of an initial claim to the employer at one of the following addresses:

- (1) the address of the employer for which the claimant last worked;
- (2) if the employer has more than one branch or division at different locations, the address of the branch or division for which the claimant last worked; or
- (3) an address designated by the employer as reflected in DES's official records.

(c) Claimants may elect to receive communications from DES by electronic transmission as defined in 04 NCAC 24A .0105.

- (1) A claimant who consents to receive communication by electronic transmission may withdraw consent at any time by providing DES with a written withdrawal of consent.
- (2) Any communication that was sent to a claimant by electronic transmission before the withdrawal of consent shall be effective as an electronic transmission.
- (3) Except as provided in Paragraph (f) of this Rule, withdrawal of consent to receive communication by electronic transmission shall become effective on the date that DES receives the written withdrawal of consent.

(d) A claimant who elects to receive communications by electronic transmission shall provide DES with a valid email address.

- (1) DES shall validate each email address by sending a notification containing a hyperlink to the email address provided by the claimant. The email sent by DES shall require the claimant to click on the hyperlink in the email in order to navigate to SCUBI to complete validation.
- (2) After a claimant validates the email address, DES shall provide all communication by electronic transmission, including determinations, requests for information, notices, and decisions. For each action taken on an account, DES shall notify each claimant by email that an action was taken, and shall direct the claimant to log into his or her SCUBI account.

(e) A claimant who elects to receive communication from DES by electronic transmission shall not receive communication from

DES by mail, unless the communication transmitted to the claimant's email address is returned to DES as undeliverable.

- (1) When an electronic communication is returned to DES as undeliverable, DES shall suspend communications by electronic transmission to the claimant's email address, and shall place an alert on the claimant's SCUBI home page. The alert shall notify the claimant:
 - (A) that electronic transmissions to his or her email address have been suspended;
 - (B) to contact the Customer Call Center to update his or her mailing and email addresses as provided in 04 NCAC 24A .0102; and
 - (C) that the claimant may elect to resume receiving communications by electronic transmissions.
- (2) Upon suspension of electronic transmissions to the claimant, DES shall send all communications to the claimant by first class mail.
- (3) A claimant who elected to receive communications by electronic transmissions from DES, and who desires to continue receiving electronic communications, but instead receives postal mail, shall contact the Customer Call Center by phone at (888) 737-0259 or facsimile at (919) 250-4315 to provide a valid email address, and request DES to send communications by electronic transmission.

(f) Except as otherwise provided in this Chapter, DES shall use the date and time of the electronic transmission to the email address provided by the claimant, or authorized agent, as the service date for purposes of calculating the time periods for correspondence, notices, deadlines, and filings. Time periods shall be determined by the date of electronic transmission when a communication is not received by the claimant as a result of an error or omission on the part of the claimant, or agent of the claimant.

History Note: Authority G.S. 96-4; 96-9.2; 96-14.1; 96-15; 96-40; Eff. July 1, 2015; Amended Eff. September 1, 2017.

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

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

- (1) The telephone number for filing a new initial claim is (888) 737-0259.
- (2) Claimants with a social security number ending in an odd number shall file weekly certifications on Monday and Wednesday through Saturday by dialing (888) 372-3453.
- (3) Claimants with a social security number ending in an even number shall file weekly

certifications on Tuesday through Saturday by dialing (888) 372-3453.

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

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-1228.
- (3) The email address is des.public.appeals@ncommerce.com.
- (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or issue identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

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

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-1369.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
- (5) Any questions regarding the contents of a Non-Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 733-1369, or email at des.ui.bpc@ncommerce.com.

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

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-1369.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC

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

- (5) Any questions regarding the contents of a Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 733-1369, or email at des.ui.bpc@ncommerce.com.

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

- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@ncommerce.com.
- (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

- (6) Any questions regarding the contents of a determination denying a protest to a Wage Transcript and Monetary Determination shall be directed to the Account and Wage Adjustment Unit of the Tax Administration Section by telephone to (919) 707-1462, facsimile at (919) 733-1255, or email at des.tax.customerservice@ncommerce.com.

(f) Protests of a Wage Transcript and Monetary Determination shall be filed with the Claims Unit by mail or facsimile.

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 715-3983.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Protests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest, the docket or identification number of the determination being protested, the claimant's identification number, the names of

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

- (5) Any questions regarding the contents of a Wage Transcript and Monetary Determination shall be directed to the Monetary Revision Unit by telephone to (919) 707-1257, facsimile at (919) 715-3983, or email at des.monetaryrevision@nccommerce.com.

(g) Petitions for Waiver of Overpayment shall be filed with the Benefits Integrity Unit by mail or facsimile.

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-1369.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Petitions shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the petition, docket or identification number of the overpayment determination, the claimant's identification number, the name of the claimant, each reason for the request to waive repayment of the overpayment, the name of the individual filing the petition, the official position of an individual filing the petition on behalf of the party, and a telephone number.

(h) Claimant appeals of a North Carolina Department of Revenue (NCDOR) Offset Letter shall be filed with the Benefits Integrity Unit by mail or facsimile.

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-1369.
- (3) Correspondence regarding a claimant's NCDOR Offset Letter submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the offset letter being appealed, the claimant's identification number, the name of the claimant, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
- (5) Any questions regarding the contents of a claimant's NCDOR Offset Letter shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 733-1369, or email at des.ui.bpc@nccommerce.com.

(i) Employer appeals of a North Carolina Department of Revenue (NCDOR) Offset Letter for outstanding tax debts shall be filed with the Tax Administration Section by mail or facsimile.

- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- (2) The facsimile number is (919) 733-1255.
- (3) Correspondence regarding an employer's NCDOR Offset Letter submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the offset letter, the name of the employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
- (5) Any questions regarding the contents of an employer's NCDOR Offset letter for outstanding tax debts shall be directed to the Tax Administration Section by telephone to (919) 707-1119, facsimile at (919) 733-1255, or email at des.tax.customerservice@nccommerce.com.

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

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-1369.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Requests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or identification number of the TOP notice, the claimant's identification number, the name of the claimant, each reason for the request, the name of the individual filing the request, the official position of an individual filing the request on behalf of the party, and a telephone number.
- (5) Claimant questions regarding TOP shall be directed to a Recovery Specialist by telephone to (919) 707-1338, or email at des.ui.bpc@nccommerce.com.

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

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

- (4) Requests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or identification number of the TOP notice, the name of the employer, each reason for the request, the name of the individual filing the request, the official position of an individual filing the request on behalf of the party, and a telephone number.
 - (5) Employer questions regarding TOP shall be directed to the Tax Administration Section by telephone to (919) 707-1119, facsimile at (919) 733-1255, or email at des.tax.customerservice@nccommerce.com.
- (l) Appeals from an Appeals Decision shall be filed with the Board of Review by mail, facsimile, or email.
- (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611.
 - (2) The facsimile number is (919) 733-0690.
 - (3) The email address is des.ha.appeals@nccommerce.com.
 - (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or issue identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
- (m) Protests or appeals of adequacy determinations shall be filed with the Claims Unit by mail or facsimile.
- (1) The mailing address is Post Office Box , 25903, Raleigh, North Carolina 27611.
 - (2) The facsimile number is (919) 733-1126.
 - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the determination being protested or appealed, the name of the employer, each reason for the protest or appeal, the name of the party filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.
- (n) Protests or appeals of a Tax Liability Determination shall be filed with the Tax Administration Section by mail, facsimile, or email.
- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
 - (2) The facsimile number is (919) 733-1255.
 - (3) The email address is des.tax.customerservice@nccommerce.com.
 - (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the result being protested or appealed, the name of the

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

(q) Protests or appeals of Tax Assessments shall be filed with the Tax Administration Section by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the assessment being protested or appealed, the name of the employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of the individual filing the protest or appeal on behalf of the party, and a telephone number.

(r) Exceptions to a Tax Opinion shall be filed with the Board of Review by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 715-7193.
- (3) The email address is BOR@nccommerce.com.
- (4) Correspondence and exceptions submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Exceptions shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the exceptions, the docket or identification number of the tax opinion, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the exceptions, each reason for the exceptions, the official position of an individual filing the exceptions on behalf of the party, and a telephone number.

(s) Requests for non-charging of benefits to an employer's account, and protests or appeals of benefit charges to an employer's account shall be filed with the Claims Unit by mail or facsimile.

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611-5903.
- (2) The facsimile number is (919) 733-1126.
- (3) Correspondence, requests, protests, or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

(4) Requests for non-charging and protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or employer's identification number, the name of the employer, each reason for the request, the name and official position of the individual filing the request, protest, or appeal, on behalf of the party, and a telephone number.

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

- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence and protests or appeal submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the denial being appealed, the name of the employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.

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

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-1370.

History Note: Authority G.S. 75-62; 96-4; 96-14.1; 96-15; 96-17; 96-40; 20 C.F.R. 603.4; Eff. July 1, 2015; Amended Eff. September 1, 2017.

04 NCAC 24A .0105 DEFINITIONS

(a) In addition to the terms defined in G.S. 96, the following definitions apply whenever these terms are used in this Chapter:

- (1) "Additional claim" means the reopening of a valid initial claim for unemployment insurance benefits after a claimant, as defined in Item (16) of this Rule, ceased filing a weekly certification as defined in G.S. 96-14.9, for one or more weeks due to intervening employment. The first week of eligibility filed after a claim has been reopened shall constitute a waiting period week if all eligibility requirements set forth in G.S. 96-14.9 are met.

- (2) "Agent state" means any state from which, or through which a claimant files a claim for benefits from another state.
- (3) "Adjudicator" means an employee of DES appointed to conduct an informal investigation and render a determination as required by G.S. 96-15(b).
- (4) "Appeal" means a submission by a party with statutory appeal rights requesting the Appeals Section of DES or the Board of Review to review a determination or decision that is adverse to that party.
- (5) "Appeals Referee" or "Hearing Officer" means an attorney appointed to hear or decide an appeal from a determination by an adjudicator and issues involving the rights, status, and liabilities of an employer pursuant to the provisions of G.S. 96-4(q) or 96-15(c).
- (6) "Appeals Section" means the section within DES where Appeals Referees conduct quasi-judicial administrative evidentiary hearings and make decisions in contested cases for unemployment insurance benefits. The Appeals Section also consists of support staff that assists Appeals Referees.
- (7) "Application for a position" means supplying the information required by an employer to place an individual in a particular position or opening. Such information may include proof of the qualifications or license required by the position or opening, employment history, and personal information, such as full name, Social Security Number or other identification number, telephone number, and current address. An application for a position may be accomplished in whatever manner acceptable to an employer, including the completion of a designated form, the provision of a written resume, or verbally.
- (8) "Authorized Representative" means an individual authorized by an employer or employing unit to act on the employer or employing unit's behalf before DES.
- (9) "Base period" means as defined in G.S. 96-1(b)(3). Calendar quarters are January through March, April through June, July through September, and October through December.
- (10) "Benefit week" means a period of seven consecutive calendar days, ending at 11:59 pm on Saturday.
- (11) "Benefit wage credits" means wages used to determine a claimant's monetary eligibility for benefits. Benefit wage credits consist of the wages a claimant received or should have received during the claimant's base period of employment and to include those wages that were awarded and paid to the claimant after the base period pursuant to a court order; a National Labor Relations Board determination; another adjudicative agency; or by private agreement, consent, or arbitration for loss of pay because of discharge. DES shall credit the awarded wages to the quarter in which the wages should have been paid.
- (12) "Board of Review" means as defined in G.S. 96-15.3 and is the body that conducts "higher authority review" of appeals arising from the decisions of the Division, tax liability hearings, and labor disputes. The Board of Review is also referred to as the "Board" or "BOR."
- (13) "Calendar Period" means the 52 week period beginning with the first day of a week in which an individual first files a valid claim for benefits and registers for work. The week begins on the first Sunday preceding the initial claim filed and ends the following year at 11:59 p.m. on Saturday.
- (14) "Charging cycle" means each calendar quarter following the prior reporting cycle, during which the employer's account is assessed and charged for erroneous unemployment insurance benefit payments resulting from untimely or inadequate responses, as defined in 04 NCAC 24D .0301, from the employer to particular Requests for Separation Information during that charging cycle if the employer met or exceeded the adequacy threshold in the prior reporting cycle.
- (15) "Chief Appeals Referee" includes the Chief Appeals Referee's designee, unless otherwise stated.
- (16) "Claimant" means an individual who files an unemployment insurance benefits claim for payments as provided in G.S. 96-14.1.
- (17) "Clear and convincing evidence" means evidence indicating that the thing to be proved is highly probable or reasonably certain.
- (18) "Customarily," as the term is used in G.S. 96-16, means during at least seventy-five percent of the calendar years of an observation interval.
- (19) "Customary" as used in G.S. 96-15.01 means the usual and habitual number of hours worked.
- (20) "Day" means a calendar day.
- (21) "Delivery service" means an authorized designated carrier pursuant to Rule 4(j) of the North Carolina Rules of Civil Procedure and 26 U.S.C. 7502(f)(2).
- (22) "DES website" means the internet address found at www.des.nc.gov.
- (23) "Due diligence" means the measure of carefulness, precaution, attentiveness, and good judgment as to be expected from, and exercised by a reasonable and prudent person under the particular circumstances.
- (24) "Effective date of a claim" means either the benefit year beginning on the Sunday preceding the payroll week ending date if the claimant is payroll attached, or the benefit year beginning

- on the Sunday of the calendar week within which a claimant filed a valid claim for benefits and registered for work if the claimant is not payroll attached.
- (25) "Electronic transmission" means delivery to an electronic mail address at which an individual or employer has consented to receive notices, documents, or other communications; or posting on an electronic network or site accessible by internet through use of a mobile application, computer, mobile device, tablet, or any other electronic device, and sending separate notice of the posting, or using any other delivery method to which the individual or employer has consented. Communication sent by DES electronic transmission shall be complete on transmission.
- (26) "Equity and good conscience" means fairness as applied to a given set of circumstances.
- (27) "Fault" means an error or defect of judgment or of conduct; any deviation from prudence or duty resulting from inattention, incapacity, perversity, bad faith, or mismanagement.
- (28) "Good cause" means a legally sufficient reason.
- (29) "In-person/telephone hearing" means an administrative hearing before the Appeals Section, Board of Review, or other designated Hearing Officer where at least one party or witness appears in-person, and another party or witness appears by telephone.
- (30) "Interstate benefit payment plan" means the plan approved by the Interstate Conference of Employment Security Agencies under which benefits may be paid to unemployed claimants absent from the state (or states) where benefit wage credits accumulated. This Rule incorporates the United States Department of Labor's Interstate Benefit Payment Plan, Interstate Agreements, ET Handbook No. 392 app. B (2d ed. 1997) by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6. Copies of the incorporated material are located at 700 Wade Avenue, in Raleigh, North Carolina, and may be obtained by request at no cost to the public as allowed under 04 NCAC 24A .0201.
- (31) "Interstate claimant" means a claimant who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state, or directly with the liable state. The term "interstate claimant" shall not include any claimant who customarily commutes from a residence in an agent state to work in a liable state unless the Division finds that this exclusion would create an undue hardship.
- (32) "Labor dispute" means a dispute between an employer and its employees about wages, hours, working conditions, or issues concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or condition of employment, between those who could be concerned in the controversy.
- (33) "Last known address" means the most recent address provided to DES by the claimant or taxpayer located in its official record, except that DES shall update addresses maintained in its official records by referring to data accumulated and maintained in the United States Postal Service (USPS) National Change of Address database that retains change of address information (NCOA Database). If the claimant or taxpayer's name and last known address in DES's official records match the claimant or taxpayer's name and previous mailing address contained in the NCOA database, the new address in the NCOA database is the taxpayer's last known address. This Rule incorporates the United States Postal Service's National Change of Address Database by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6. Copies of the incorporated material are located at 700 Wade Avenue, in Raleigh, North Carolina, and may be obtained by request at no cost to the public by contacting DES as specified under 04 NCAC 24A .0201.
- (34) "Legal representative" means a licensed attorney or a person supervised by a licensed attorney.
- (35) "Liable state" means any state against which a claimant files a claim for benefits through another state.
- (36) "NDNH" is an acronym, and means the National Directory of New Hires. NDNH is a national database of wage and employment information established by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and operated by the federal Office of Child Support Enforcement.
- (37) "Observation interval" means an interval of time including the four consecutive calendar years preceding the calendar year in which an application for a seasonal determination is made pursuant to G.S. 96-16. In the case of a newly liable employer or an employer whose operational activities have changed, the observation interval may be less than four calendar years.
- (38) "Official record" means information in the records of a state or state unemployment compensation agency that pertains to the administration of the unemployment insurance program. Official records include claim information, wage information, confidential

- information, and unemployment compensation information as defined in 20 C.F.R. 603.2, which is incorporated by reference, and includes subsequent amendments and editions of the referenced material. This material is available, free of charge, at <http://www.ecfr.gov>. Official records also include information provided by a federal, state, or private entity, or a claimant or employer for reliance upon, or use by the state in administering its unemployment insurance program.
- (39) "Party with appeal rights" means a party who has the right to appeal an unfavorable determination or decision pursuant to G.S. 96-4(q) and G.S. 96-15.
- (40) "Public employment office" means a local office managed and operated by the Division of Workforce Solutions (DWS) of the North Carolina Department of Commerce.
- (41) "Regularly recurring" means a period or periods of operational activity and shall be deemed regularly recurring if, during at least seventy-five percent of the calendar years in the observation interval, the beginning and ending dates of the period or periods do not vary more than four weeks.
- (42) "Reopened claim" means the resumption of a valid initial claim following a break in filing weekly certifications during a benefit year and the break was caused by reasons other than intervening employment. The first week of eligibility following the effective date of the reopened claim shall constitute a waiting period week if all eligibility requirements set forth in G.S. 96-14.9 are met.
- (43) "Reporting cycle" means the 52 week period beginning August 1st and ending July 31st the following year in which the employer's account is examined and recorded for any inadequate responses to Requests for Separation Information (NCUI 500AB).
- (44) "SCUBI" is an acronym, and means the Southeast Consortium Unemployment Benefits Initiative referenced in G.S. 96-40(b)(1). SCUBI is a multi-state consortia consisting of North Carolina, South Carolina, and Georgia.
- (45) "SIDES" is an acronym, and means the State Information Data Exchange System. SIDES is a secure, nationally standardized, web based system that allows electronic transmission of information requests from DES to employers or third party administrators, as well as electronic transmission of replies containing the requested information back to DES.
- (46) "State" means any of the 50 states in the United States and includes the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.
- (47) "Valid email address" means a unique identifier for an email account that is used to send and receive messages over the internet, and is composed of three parts: the user name, the "at symbol" (@), and the domain. To be valid, an email address shall be one to which DES can send emails, and shall be provided to DES for use by the claimant, employer, legal representative, or other authorized representative of the claimant or employer. The most recent email address provided to DES shall be maintained in DES's records, as the claimant's or employer's official email address.
- (48) "Wages paid" means both wages actually received by a worker, and wages "constructively paid." "Wages are constructively paid when they are credited to the account of, or set apart for a worker without any substantial restriction as to the time or manner of payment or condition upon which payment is to be made, and shall be made available so that the worker may draw upon them at any time, and payment brought within the worker's control and disposition, although not reduced to possession.
- (49) "Wages payable" means wages earned but not paid.
- (50) "Weekly period" means a seven day period beginning at 12:00 a.m. Sunday and ending on the following Saturday at 11:59 p.m.
- (51) "Week of unemployment" includes any week of unemployment as defined in the law of the liable state from which benefits for the week are claimed.

History Note: Authority G.S. 84; 96-1; 96-4; 96-9.2; 96-9.6; 96-14.1; 96-14.9; 96-15; 96-17; 96-20; Eff. July 1, 2015; Temporary Amendment Eff. March 1, 2016; Temporary Amendment Expired December 10, 2016; Amended Eff. September 1, 2017; April 1, 2017.

04 NCAC 24A .0109 POWER OF ATTORNEY

- (a) An employer may appoint an agent with full or limited power and authority to act on his, her, or its behalf with DES in accordance with G.S. 32A-2(10). An employer's appointment of an agent shall be made in writing in the manner prescribed by G.S. 32A-1, or by using the Power of Attorney and Declaration of Representative form found on DES's website at www.des.nc.gov.
- (b) An agent appointed pursuant to a power of attorney may:
- (1) complete and submit documents for filing employers' tax and wage reports;
 - (2) complete and submit documents regarding an employer's tax rate, contributions, and direct reimbursements;
 - (3) respond to benefit claims documents, including responding to requests for information about a claimant's separation or status;

- (4) engage in discussions with DES representatives regarding the actions listed above; and
- (5) accept or receive correspondence sent by DES regarding claims for benefits or an employer's contributions.

History Note: Authority G.S. 32A-1; 32A-2; 96-4; 96-9.15; Eff. July 1, 2015; Amended Eff. September 1, 2017.

04 NCAC 24A .0110 LIMITATION ON AUTHORITY GRANTED BY POWER OF ATTORNEY

- (a) A representative authorized to act for a claimant or employer pursuant to a power of attorney shall not enter appeals or protests from any decisions made by an adjudicator, appeals referee, hearing officer, the Assistant Secretary, the Board of Review, or any other employee authorized to act on behalf of DES or the Board of Review, unless the representative is qualified to serve as a legal representative pursuant to G.S. 96-17(b).
- (b) A representative authorized to act for a claimant or employer pursuant to a power of attorney may appear as a witness, but shall not represent the claimant or employer in any hearings conducted by DES, the Board of Review, or any employee designated to act on behalf of DES or the Board of Review.
- (c) An individual authorized to act as a legal representative in a hearing before an Appeals Referee shall submit notice in writing to the Appeals Referee in accordance with 04 NCAC 24C .0302.
- (d) An individual authorized to act as a legal representative in a hearing before the Board of Review, or to enter an appeal or protest before the Board of Review, shall submit notice in writing in accordance with 04 NCAC 24C .0504.

History Note: Authority G.S. 84-2.1; 84-4; 84-4.1; 84-5; 96-4; 96-17; Eff. September 1, 2017.

04 NCAC 24B .0402 REQUEST FOR SEPARATION INFORMATION FROM EMPLOYER

- (a) DES shall provide requests for information regarding a claimant's separation or status to the employer's last known mailing address or email address as reflected in DES's official records. Requests shall be provided to the employer's mailing address when responding to the request by SCUBI, and to the email address when responding to the requests by SIDES.
- (b) Employers shall electronically submit separation information and information regarding a claimant's employment status consistent with G.S. 96-15(b)(2) by SCUBI at www.des.nc.gov or by SIDES.
 - (1) DES shall provide employers using SCUBI with written instructions for submitting responses by SCUBI with the request for information.
 - (2) SIDES participants who elect to receive communications from SIDES shall receive written instructions for submitting responses to the request for information by email or proprietary SIDES interface software.

(c) Each employer's response in connection with a request from DES shall include the following information as applicable to a claimant's claim:

- (1) last and first dates of employment;
- (2) the claimant's pay rate;
- (3) the gross amount of any vacation, severance, and sick pay;
- (4) the beginning and ending dates covered by any separation payments;
- (5) if the claimant quit the job or left work:
 - (A) a copy of the employee's resignation letter, if one exists; and
 - (B) each reason provided by the claimant to the employer for leaving work; or
- (6) if the claimant was discharged:
 - (A) each reason for the discharge with supporting documentation and evidence; and
 - (B) a copy of each policy, warning, handbook, document, acknowledgment, or contract signed by the claimant that is relevant to the claimant's discharge; or
- (7) if the claimant was separated due to an inability to perform the job duties and was employed less than 100 days, an explanation describing the job requirements, the claimant's inability to perform the job duties, and steps taken by the employer to assist the claimant to perform the job duties prior to discharge; or
- (8) if the claimant is still employed with the employer:
 - (A) the terms of employment and conditions under which the claimant was hired;
 - (B) the number of hours per week that the claimant is currently working;
 - (C) the customary number of hours per week that the claimant has worked;
 - (D) with regard to any reduction of the claimant's work hours:
 - (i) the date the reduction took place;
 - (ii) reasons for the reduction; and
 - (iii) if the reduction is temporary, the expected date for the claimant's return to work; and
- (9) any separation or status information requested by DES, or that the employer expects is necessary for DES to make a correct initial determination of the claimant's eligibility for unemployment benefits.

History Note: Authority G.S. 96-1; 96-4; 96-11.3; 96-11.4; 96-15; 96-15.01; 20 U.S.C. 3303; Eff. July 1, 2015; Amended Eff. September 1, 2017.

04 NCAC 24B .0601 NOTICE REQUIREMENT FOR OVERPAYMENT

(a) A determination by DES finding an overpayment of benefits to a claimant shall contain:

- (1) the date the determination was mailed or sent to the claimant by electronic transmission;
- (2) reasons for the overpayment;
- (3) the statutory authority under G.S. 96-18(g)(3) for seeking repayment of the overpayment;
- (4) notice that the claimant may protest the overpayment determination and instructions on how to protest the overpayment determination as provided in 04 NCAC 24A .0104(c); and
- (5) notice that the claimant may file a request for waiver of the overpayment in the same manner as prescribed under Subparagraph (4) of this Rule.

(b) A determination notifying a claimant of an overpayment of benefits caused by the reversal of a previous decision that found the claimant eligible or not disqualified to receive benefits shall contain the same information contained in Subparagraphs (a)(1) through (3) of this Rule, and shall:

- (1) have no protest rights;
- (2) notify the claimant that the overpayment may only be protested by appealing the underlying decision that ruled the claimant ineligible or disqualified for benefits; and
- (3) notify the claimant that DES shall not consider a request to waive repayment of an overpayment while an appeal of the underlying decision that resulted in the overpayment is pending, or until the underlying decision that resulted in the overpayment is final.

History Note: Authority G.S. 96-4; 96-15; 96-18; Eff. July 1, 2015; Amended Eff. October 1, 2017.

04 NCAC 24B .1101 NDNH CLAIMANT NOTICE

(a) When DES receives NDNH information that a claimant has returned to work, DES shall send written notice to the claimant requesting employment and wage information. The notice shall inform the claimant that:

- (1) DES is conducting an audit of the claimant's claim for unemployment benefits;
- (2) DES received information that the claimant may have filed, continued to file, or received unemployment benefits during weeks when the claimant may have been employed;
- (3) DES shall request from the employer the actual wages earned for the weeks where the claimant may have been employed while claiming or receiving unemployment insurance benefits;
- (4) he or she shall respond to DES with the employment and wage information requested in the notice within 14 days of the date that the notice was mailed or sent by electronic transmission to the claimant;

- (5) he or she is required to report all wages earned when filing weekly certifications;
- (6) an overpayment of unemployment insurance benefits may exist;
- (7) the claimant may be required to repay any benefits determined to be overpaid;
- (8) working, earning wages, and failing to report employment or wages may constitute fraud under G.S. 96-18;
- (9) individuals may be criminally prosecuted for committing fraud; and
- (10) the consequences for failing to respond to DES's request for employment information include suspension of benefit payments to determine eligibility.

(b) Each notice shall request that the claimant certify that he or she did not work for the listed employer during the specified time period, or provide and certify that the following information is true and correct:

- (1) the employer's phone number;
- (2) the claimant's job title;
- (3) the month during which the claimant may have been hired;
- (4) the first date of the claimant's employment;
- (5) the last date that the claimant performed work for the employer;
- (6) the claimant's starting and current rate of pay;
- (7) the claimant's employment status with the employer;
- (8) the claimant's pay records for the specified time period;
- (9) the claimant's standard or customary work week;
- (10) the total number of hours worked by the claimant for the specified weeks; and
- (11) the amount and type of any other pay earned by the claimant for the specified weeks.

(c) Each notice shall provide information on how the claimant may contact DES's Benefits Integrity Unit by mail or facsimile to provide the requested employment and wage information.

History Note: Authority G.S. 96-14.1; 94-14.9; 96-17; 96-18; Eff. October 1, 2017.

04 NCAC 24B .1102 NDNH EMPLOYER NOTICE

(a) When DES receives NDNH information that a claimant has returned to work, DES shall send written notice to the potential employer requesting employment and wage information. The notice shall:

- (1) inform the employer that DES is conducting an audit of the claimant's claim for unemployment benefits;
- (2) specify the weeks for which the claimant may have been employed while claiming or receiving unemployment benefits;
- (3) request that the employer respond to DES with the requested employment and wage information within 14 days;

- (4) request that the employer certify that the claimant did not work for the employer during the specified time period, or provide and certify that the following information is true and correct:
- (A) the month during which the claimant may have been hired;
 - (B) the first date of the claimant's employment;
 - (C) the last date that the claimant performed work for the employer;
 - (D) the claimant's starting and current rate of pay;
 - (E) the claimant's employment status with the employer;
 - (F) the claimant's original time and pay records;
 - (G) the manner in which the employer's pay periods are structured, including the pay period ending dates;
 - (H) the claimant's standard or customary work week;
 - (I) the total number of hours worked by the claimant for the specified weeks;
 - (J) the date that the claimant was paid for the specified weeks;
 - (K) the gross wages earned by the claimant for work performed in each specified week; and
 - (L) the amount and type of any other pay earned by the claimant for the specified weeks.

(b) Each notice shall provide information on how the employer may contact DES's Benefits Integrity Unit by mail or facsimile to provide the requested employment and wage information.

History Note: Authority G.S. 96-14.1; 94-14.9; 96-17; 96-18; Eff. October 1, 2017.

04 NCAC 24B .1103 CLAIMANT RESPONSE TO REQUEST FOR EMPLOYMENT AND WAGE INFORMATION

- (a) If a claimant fails to respond to DES's request for employment and wage information within 14 days of the date that the notice was mailed or sent by electronic transmission to the claimant, DES shall adjudicate an issue of eligibility for failure to report in accordance with 04 NCAC 24B .0401;
- (b) If a claimant responds to DES's request for employment and wage information within 14 days, DES shall review information received from the claimant or employer to determine if an overpayment of unemployment insurance benefits exist.
- (c) DES shall issue a determination consistent with 04 NCAC 24B .0601 if an overpayment exists.

History Note: Authority G.S. 96-14.9; 96-15; 96-17; 96-18; Eff. October 1, 2017.

04 NCAC 24B .1104 EMPLOYER RESPONSE TO REQUEST FOR EMPLOYMENT AND WAGE INFORMATION

- (a) If an employer fails to respond to DES's request for employment and wage information within 14 days of the date that the request was mailed or sent by electronic transmission to the employer, such failure may result in DES's finding that the employer's response was untimely or inadequate in accordance with 04 NCAC 24D .0300.
- (b) An employer's response to DES's request for employment and wage information may result in credits to, or elimination of charges to the employer's account.

History Note: Authority G.S. 96-11.3, 96-11.4; 96-17; Eff. October 1, 2017.

04 NCAC 24C .0204 APPEALS HEARING NOTICE

- (a) The Appeals Section shall mail notice of the hearing to each party at least 14 days before the hearing date, unless a party elects to receive notices by electronic transmission pursuant to 04 NCAC 24A .0103.
- (b) A party who elects to receive correspondence and notices by electronic transmission shall receive an email notification that the hearing notice, documents, or other information are available for electronic retrieval, along with instructions for retrieval.
- (c) Notice of the hearing shall include:
 - (1) the determination appealed;
 - (2) the appealing party;
 - (3) the time of the hearing;
 - (4) the date of the hearing;
 - (5) if requested at the time of filing the appeal, the physical location of an in-person hearing;
 - (6) the telephone number of each party for telephone hearings;
 - (7) each issue, with statutory reference, to be heard and decided;
 - (8) the name and contact information of the designated Appeals Referee;
 - (9) the manner by which witnesses may offer evidence and participate in the hearing;
 - (10) each party's right to legal representation;
 - (11) instructions for requesting a rescheduling of the hearing;
 - (12) each party's right and instructions for requesting the issuance of a subpoena for the production of records or individuals to appear to testify;
 - (13) instructions on how to request an in-person hearing; and
 - (14) instructions on how to give evidence for a hearing.
- (d) The determination, the written appeal, and any additional documents provided to the Appeals Section by either party shall accompany the hearing notice.

History Note: Authority G.S. 96-4; 96-15; Eff. July 1, 2015; Amended Eff. September 1, 2017.

04 NCAC 24C .0205 TELEPHONE HEARINGS

(a) Hearings shall be conducted by telephone conference call, unless a request is made for an in-person hearing at the time the appeal is filed or an objection is made pursuant to Rule .0206 of this Section.

(b) In cases of telephone hearings, the Appeals Section shall provide a Telephone Hearing Questionnaire for each party to use to submit each telephone number to be called by the Appeals Referee for the hearing.

(c) Each party may complete and submit the Telephone Hearing Questionnaire containing each number to be called for the hearing to the Appeals Referee listed in the hearing notice, or pursuant to 04 NCAC 24A .0104(b).

(d) After receiving the hearing notice, and prior to the hearing, any party may contact the Appeals Referee to provide the name of each participant and each telephone number to be called for the hearing. In the absence of the submission by a party of any telephone number to be called for the hearing, the Appeals Referee shall call the party at the telephone number listed on the hearing notice.

History Note: Authority G.S. 96-4; 96-15; Eff. July 1, 2015; Amended Eff. October 1, 2017.

04 NCAC 24D .0103 REQUIREMENTS FOR REQUESTING NONCHARGING OF BENEFIT PAYMENTS

An employer who requests noncharging of benefit charges shall make the request by stating each reason for the request in writing within 15 days of the mailing date of the notice of potential charges to DES's Claims Unit, pursuant to 04 NCAC 24A .0104(s).

History Note: Authority G.S. 96-4; 96-11.3; Eff. July 1, 2015; Recodified from 04 NCAC 24D .0201 Eff. March 1, 2017; Amended Eff. October 1, 2017.

04 NCAC 24D .0202 REQUIREMENTS FOR FILING PROTESTS TO LIST OF CHARGES

(a) An employer who protests the benefit charges to its account shall make the protest in writing within 15 days of the mailing date of the notice of potential charges to DES's Claims Unit in accordance with 04 NCAC 24A .0104(s), and shall list all grounds for the protest as prescribed under Rule .0203 of this Section.

(b) Any of the following forms, when completed with the information indicated in Paragraph (a) of this Rule, shall constitute compliance with this Rule:

- (1) Notice of Initial Claim and Potential Charges to Your Account; and
- (2) Notice of Combined Wage Claim and Potential Charges to Your Account.

History Note: Authority G.S. 96-4; 96-11.3; 96-11.4; Eff. July 1, 2015; Recodified from 04 NCAC 24D .0103 Eff. March 1, 2017; Amended Eff. October 1, 2017.

04 NCAC 24D .0203 GROUNDS FOR PROTESTING LIST OF CHARGES

An employer shall only file protests for the following reasons:

- (1) clerical errors in the list of charges;
- (2) charges resulting from individuals who were never employed by the employer; or
- (3) the claimant has new separation from employment occurring between the date that the claimant's benefit year began and the last week ending date for which the claimant was paid benefits, and a base period employer did not have an opportunity to request noncharging on the subsequent separation.

History Note: Authority G.S. 96-4; 96-11.3; 96-11.4; 96-11.5; Eff. July 1, 2015; Recodified from 04 NCAC 24D .0105 Eff. March 1, 2017; Amended Eff. October 1, 2017.

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

The determination by DES shall contain:

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

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

04 NCAC 24D .0302 ADEQUACY THRESHOLD DETERMINATION

(a) The Adequacy Threshold Determination shall include:

- (1) the effect of the determination on the employer's account;
- (2) the reasons for the determination;
- (3) the date the determination was mailed or sent by electronic transmission to the employer;
- (4) instructions for protesting the determination; and
- (5) the time period within which a protest shall be filed.

(b) An employer may protest its Adequacy Threshold Determination and shall file its written request with DES's Claims Unit pursuant to 04 NCAC 24A .0104(m).

- (1) The request shall include the following:

- (A) the name of the employing unit;
- (B) the address of the employing unit;
- (C) the account number of the employing unit;
- (D) a statement of the question involved and reasons for the request; and
- (E) the name, address, and official position of the individual making the request.

(2) The written request shall be filed within 15 days after the date that the Adequacy Threshold Determination notice was sent to the employer, and the timeliness requirements of 04 NCAC 24A .0106 shall apply.

(c) Following receipt of the written request, the Claims Unit shall review the employer's request for review and issue a written determination. The determination shall notify the employing unit of whether its application was granted or denied, and explain the reasons for the ruling and what information was considered.

(d) No further right of appeal from an unfavorable written determination of a protest of an Adequacy Threshold Determination shall exist unless and until an Adequacy Penalty Determination, as defined under Rule .0303 of this Section is issued at the conclusion of each corresponding charging cycle.

History Note: Authority G.S. 96-4; 96-11.3; 96-11.4; 96-15; 26 U.S.C. 3303; Eff. July 1, 2015; Amended Eff. October 1, 2017.

04 NCAC 24D .0303 ADEQUACY PENALTY DETERMINATION

(a) DES shall issue a written Adequacy Penalty Determination at the end of each charging cycle to notify the employer of charges to its account for erroneous unemployment benefit payments identified during the charging cycle if the payments resulted from untimely or inadequate responses as set forth in 04 NCAC 24D .0301 to requests for information regarding a claimant's separation from employment or status, if the employer met or exceeded the adequacy threshold in the prior reporting cycle.

(b) The Adequacy Penalty Determination shall include the following:

- (1) a listing containing the specific claims that would have resulted in a relief from charges as a result of erroneous unemployment insurance payments that were later reversed on appeal;
- (2) instructions for protesting the Adequacy Penalty Determination; and
- (3) the date that the Adequacy Penalty Determination is mailed or sent to the employer by electronic transmission.

(c) An employer may protest its Adequacy Penalty Determination and shall file its written request with DES's Claims Unit pursuant to 04 NCAC 24A .0104(m).

- (1) The request shall include:
 - (A) the name of the employing unit;
 - (B) the address of the employing unit;
 - (C) the account number of the employing unit;

- (D) a statement of the question involved and reasons for the request; and
- (E) the name, address, and official position of the individual making the request.

(2) The written request shall be filed within 15 days after the date that the Adequacy Penalty Determination was mailed or provided to the employer by electronic transmission, and the timeliness requirements of 04 NCAC 24A .0106 shall apply.

(3) Following receipt of the written request, the Claims Unit shall review the employer's request and issue a written determination. The determination shall notify the employing unit of whether its application was granted or denied, explain the reasons for the ruling and identify the information considered, and contain instructions for appealing a denial to DES's Appeals Section pursuant to 04 NCAC 24A .0104(m).

History Note: Authority G.S. 96-11.3; 96-11.4; 96-15; 26 U.S.C. 3303; Eff. July 1, 2015; Amended Eff. October 1, 2017.

04 NCAC 24D .0304 APPEALING ADEQUACY PENALTY DETERMINATIONS

(a) An employer may file an appeal of its Adequacy Penalty Determination and request a hearing. The appeal shall be filed with DES's Claims Unit pursuant to 04 NCAC 24A .0104(m).

(b) The appeal shall be filed within 15 days after the date that the Adequacy Penalty Protest Determination was sent to the employer, and the timeliness requirements of 04 NCAC 24A .0106 shall apply.

(c) Appeal hearings from Adequacy Penalty Determinations shall be conducted as set forth in Section .0200 of Subchapter 24C.

History Note: Authority G.S. 96-11.3; 96-11.4; 96-15; 26 U.S.C. 3303; Eff. July 1, 2015; Amended Eff. October 1, 2017.

TITLE 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

07 NCAC 02H .0107 BORROWING PRIVILEGES

(a) Library materials and equipment shall be available to all registered borrowers in accordance with the rules set forth in this Subchapter.

(b) Circulated materials may be checked out by registered borrowers for 28 calendar days ("loan period").

(c) Registered borrowers may reserve circulated materials and have them placed on hold. Materials shall be reserved by:

- (1) visiting the library circulation desk;
- (2) online at ncgov.nccardinal.org;

- (3) calling the Government and Heritage Library at 919-807-7450; or
- (4) submitting an email to slnc.reference@ncdcr.gov.

Eff. September 1, 2017.

Materials placed on hold shall be held at the library circulation desk for five business days.

(d) Registered borrowers may renew loaned materials once per loan period. Renewals shall be made in the same manner as provided in Paragraph (c) of this Rule.

(e) Borrowed materials shall be returned by 5:00 p.m. on the last day of the loan period. Any borrowed materials not returned in accordance with this Paragraph shall be classified as overdue. An overdue notice shall be sent to the borrower by email or U.S. Mail for any materials that are not returned or renewed prior to the end of the loan period. Borrowers shall not be fined for overdue books.

(f) The status of borrowed items shall be changed to lost for items not returned after 90 calendar days. Borrowers shall be required to comply with Rule .0103 of this Section to replace lost items.

(g) Failure to comply with Paragraph (e) of this Rule may result in the restriction or suspension of a borrower's privileges as set forth in Rule .0109 of this Section.

History Note: Authority G.S. 125-2(4); 143B-10; Eff. September 1, 2017.

07 NCAC 02H .0108 REGISTRATION

(a) The Government and Heritage Library shall maintain a collection of materials and equipment that shall be available for use to the public.

(b) Borrowing privileges shall only be granted to citizens of the State and State employees who have registered with the Government and Heritage Library.

(c) To register for borrowing privileges, each individual shall appear in person and provide the Library with the following information on a form provided by the Library:

- (1) name;
- (2) address;
- (3) telephone number;
- (4) email address;
- (5) date of birth;
- (6) physical driver's license, or state-issued photo identification, if over the age of 16; and
- (7) signature or signature of parent or guardian, if under the age of 16.

(d) The Library shall provide all registered borrowers with a Library card at no cost. The card may be presented in order to check-out materials in the Library's collection. If a borrower cannot present his or her card, the borrower's status may be confirmed by providing the librarian with his or her name and address. If a card is lost or stolen, the borrower may request a replacement card, at no charge, by providing the librarian with the information contained in Paragraph (c) of this Rule.

(e) Borrowers shall notify the Library of any change in their information required by Paragraph (c) of this Rule. Failure to inform the Library of these changes may result the restriction or suspension of borrowing privileges as set forth in Rule .0109 of this Section.

History Note: Authority G.S. 125-2(4); 143B-10;

07 NCAC 02H .0109 RESTRICTION AND SUSPENSION OF PRIVILEGES

(a) The Government and Heritage Library may restrict or suspend a patron's access to materials and equipment for violation of any rule set forth in this Subchapter.

(b) A borrower's check-out privileges shall be suspended for the following:

- (1) failure to return overdue materials within 15 days of the issuance of any overdue notice;
- (2) damage to any library materials or equipment; or
- (3) unauthorized use of materials or equipment, including loaning library materials to non-registered borrowers, using materials or equipment in a manner prohibited by its proper use, or removing non-circulating materials or equipment from the Library.

(c) The period of suspension shall not exceed one year. In setting the period of suspension, the State Librarian shall consider the Rule violated, the extent of harm to the Library's property, and any previous rule violations by the patron. The State Librarian shall send a letter of suspension to the borrower by email or U.S. Mail.

History Note: Authority G.S. 125-2(4); 143B-10; Eff. September 1, 2017.

TITLE 11 - DEPARTMENT OF INSURANCE

11 NCAC 05A .0501 PURPOSE

History Note: Authority G.S. 58-2-40; 58-86-25; Eff. September 1, 1985; Amended Eff. October 1, 2006; July 1, 1992; July 1, 1986; Repealed Eff. January 1, 2018.

11 NCAC 05A .0505 DRILLS AND MEETING REQUIREMENTS

History Note: Authority G.S. 58-2-40; 58-36-10; 58-78-5; 58-86-25; Eff. September 1, 1985; Amended Eff. October 1, 2010; October 1, 2006; July 1, 1992; Repealed Eff. January 1, 2018.

11 NCAC 05A .0508 APPARATUS

History Note: Authority G.S. 58-2-40; 58-36-10(3); 58-86-25; Eff. September 1, 1985; Amended Eff. October 1, 2006; August 3, 1992; Repealed Eff. January 1, 2018.

11 NCAC 05A .0511 SIX MILE INSURANCE DISTRICT

History Note: Authority G.S. 58-2-40; 58-86-25; 58-40-25(4);
 Eff. October 1, 2006;
 Repealed Eff. January 1, 2018.

14B NCAC 10 .0501 WEIGH-INS FOR BOXING

(a) Contestants shall be classified by weight and may fight above or below his or her weight class in accordance with this Paragraph. The maximum amount of weight difference between the two contestants shall be decided by the lower weight class. A contestant shall not be permitted to compete if the difference in weight between the contestants exceeds the difference shown in the following schedule:

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

Weight class	Weights	Allowances
Flyweight	up to 112 pounds	not more than 3 pounds
Bantamweight	113 to 118 pounds	not more than 3 pounds
Featherweight	119 to 126 pounds	not more than 5 pounds
Junior Lightweight	127 to 130 pounds	not more than 7 pounds
Lightweight	131 pounds to 135 pounds	not more than 7 pounds
Junior Welterweight	136 to 140 pounds	not more than 9 pounds
Welterweight	141 to 147 pounds	not more than 9 pounds
Junior Middleweight	148 to 154 pounds	not more than 11 pounds
Middleweight	155 to 160 pounds	not more than 11 pounds
Light Heavyweight	161 to 175 pounds	not more than 12 pounds
Cruiserweight	176 to 190 pounds	not more than 15 pounds
Heavyweight	over 191 pounds	no limit

(b) Contestants in matches shall be weighed on the same scale at a time and place to be determined by the Division representative, in the presence of the opponent and the Division representative. Once the time and location of weigh-ins has been established, contestants shall be notified by the promoter or his or her designee. All contestants, shall be limited to shirt, shorts, and socks while being weighed in. The weigh-in shall occur 12 hours or less prior to the scheduled starting time of the first match of the program of matches. However, where a program of matches is scheduled to begin in the afternoon, the Division representative, if requested by the promoter, may approve an early weigh-in time of noon or later the day before the day of the program of matches if personnel is available. Substitution of a contestant or contestants shall not be allowed after the weigh-in.

(c) Failure of a contestant to be present at the weigh-in at the time and place designated by the Division representative shall result in the contestant's loss of right to view the weigh-in of his or her opponent.

(d) If the weight of any contestant in a match fails to meet the weight parameters as set forth in Paragraph (a) of this Rule at the time of the official weigh-in, he or she shall have two additional hours to meet the weight parameters provided that:

- (1) No contestant that weighs 147 pounds or less may lose more than two pounds in less than 12 hours before a match.
- (2) No contestant weighing more than 147 pounds or less than 190 pounds, may lose more than three pounds in less than 12 hours before a match.
- (3) No contestant weighing more than 190 pounds may lose more than four pounds in less than 12 hours before a match.

(4) Contestants may not gain weight after the official weigh-ins have begun to make weight parameters during the time of weigh-ins.

(e) At the time of weigh-in, each contestant in a match shall provide to the Division representative for inspection a picture identification issued by a federal, state or local unit of government, or other governmental authority.

History Note: Authority G.S. 143-652.1;
 Temporary Adoption Eff. January 1, 1996;
 Eff. April 1, 1996;
 Transferred and recodified from 18 NCAC 09 Eff. November 8, 2002;
 Amended Eff. March 1, 2008 (recodified from 14A NCAC 12 .0104);
 Transferred from 14A NCAC 12 .0501 Eff. June 1, 2013;
 Amended Eff. September 1, 2017.

14B NCAC 10 .0801 WEIGH INS-MIXED MARTIAL ARTS

The mixed martial arts weigh-ins shall be conducted in accordance with the requirements of 14B NCAC 10 .0501, except for the following:

- (1) Contestants shall be classified by weight and may fight above or below his or her weight class in accordance with this Item. The maximum amount of weight difference between the two contestants shall be decided by the lower weight class. A contestant shall not be permitted to compete if the difference in weight between the contestants exceeds the difference shown in the following schedule:

Weight class	Weights	Allowances
Straw weight	115 pounds or less	3 pounds
Flyweight	116 to 125 pounds	3 pounds
Bantamweight	126 to 135 pounds	3 pounds
Featherweight	136 to 145 pounds	5 pounds
Lightweight	146 to 155 pounds	5 pounds
Welterweight	156 to 170 pounds	5 pounds
Middleweight	171 to 185 pounds	7 pounds
Light Heavyweight	186 to 205 pounds	7 pounds
Heavyweight	206 to 265 pounds	7 pounds
Super Heavyweight	over 265 pounds	no limit

- (2) If the weight of any contestant fails to meet the weigh parameters as set forth in Item (1) of this Rule at the time of the official weigh-in, he or she shall have two additional hours to meet the weight parameters provided that:
- (a) No contestant, weighing 145 pounds or less, may lose more than two pounds in less than 12 hours before a contest.
 - (b) No contestant, weighing more than 145 pounds or less than 186 pounds, may lose more than three pounds in less than 12 hours before a contest.
 - (c) No contestant weighing more than 186 pounds may lose more than four pounds in less than 12 hours before a contest.
 - (d) Contestants may not gain weight after the official weigh-ins have begun to make weight parameters during the time of weigh-ins.

- (A) For an existing emissions unit, baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the five year period immediately preceding the date that a complete permit application is received by the Division for a permit required under this Rule. The Director shall allow a different time period, not to exceed 10 years immediately preceding the date that a complete permit application is received by the Division, if the owner or operator demonstrates that it is more representative of normal source operation. For the purpose of determining baseline actual emissions, the following apply:

- (i) The average rate shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions;
- (ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period;
- (iii) For an existing emission unit (other than an electric utility steam generating unit), the average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the

History Note: Authority G.S. 143-652.1; Eff. March 1, 2008; Transferred from 14A NCAC 12 .0801 Eff. June 1, 2013; Amended Eff. September 1, 2017.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 02D .0530 PREVENTION OF SIGNIFICANT DETERIORATION

- (a) The purpose of the Rule is to implement a program for the prevention of significant deterioration of air quality as required by 40 CFR 51.166.
- (b) For the purposes of this Rule, the definitions contained in 40 CFR 51.166(b) and 40 CFR 51.301 apply, except the definition of "baseline actual emissions." For the purposes of this Rule:
- (1) "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated new source review (NSR) pollutant, as determined in accordance with Parts (A) through (C) of this Subparagraph:

- major stationary source must currently comply. However, if the State has taken credit in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G) for an emission limitation that is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under Part 63 in Title 40 of the Code of Federal Regulations, the baseline actual emissions shall be adjusted to account for such emission reductions;
- (iv) For an electric utility steam generating unit, the average rate shall be adjusted downward to reflect any emissions reductions under G.S. 143-215.107D and for which cost recovery is sought pursuant to G.S. 62-133.6;
 - (v) For a regulated NSR pollutant, if a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period for each regulated NSR pollutant may be used for each regulated NSR pollutant; and
 - (vi) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subparts (ii) and (iii) of this Part;
- (B) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero and thereafter, for all other purposes, shall equal the unit's potential to emit; and
- (C) For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing emissions units in accordance with the procedures contained in Part (A) of this Subparagraph and, for a new emissions unit, in accordance with the procedures contained in Part (B) of this Subparagraph;
 - (2) In the definition of "net emissions increase," the reasonable period specified in 40 CFR 51.166(b)(3)(ii) shall be seven years;
 - (3) The limitation specified in 40 CFR 51.166(b)(15)(ii) shall not apply; and
 - (4) Particulate matter PM_{2.5} significant levels set forth in 40 CFR 51.166(b)(23)(i) are incorporated by reference except as otherwise provided in this Rule. Sulfur dioxide (SO₂) and nitrogen oxides (NO_x) are precursors to PM_{2.5} in all attainment and unclassifiable areas. Volatile organic compounds and ammonia are not significant precursors to PM_{2.5}.
 - (c) All areas of the State are classified as Class II, except the following areas, which are designated as Class I:
 - (1) Great Smoky Mountains National Park;
 - (2) Joyce Kilmer Slickrock National Wilderness Area;
 - (3) Linville Gorge National Wilderness Area;
 - (4) Shining Rock National Wilderness Area; and
 - (5) Swanquarter National Wilderness Area.
 - (d) Redesignations of areas to Class I or II may be submitted as state proposals to the Administrator of the Environmental Protection Agency (EPA) if the requirements of 40 CFR 51.166(g)(2) are met. Areas may be proposed to be redesignated as Class III if the requirements of 40 CFR 51.166(g)(3) are met. Redesignations may not, however, be proposed which would violate the restrictions of 40 CFR 51.166(e). Lands within the boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body.
 - (e) In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the values set forth in 40 CFR 51.166(c). However, concentration of the pollutant shall not exceed standards set forth in 40 CFR 51.166(d).
 - (f) Concentrations attributable to the conditions described in 40 CFR 51.166(f)(1) shall be excluded in determining compliance with a maximum allowable increase. However, the exclusions referred to in 40 CFR 51.166(f)(1)(i) or (ii) shall be limited to five years as described in 40 CFR 51.166(f)(2).
 - (g) Major stationary sources and major modifications shall comply with the requirements contained in 40 CFR 51.166 (a)(7) and (i) and in 40 CFR 51.166(j) through (o) and (w). The transition provisions allowed by 40 CFR 52.21(i)(11)(i) and (ii) and (m)(1)(vii) and (viii) are hereby adopted under this Rule. The minimum requirements described in the portions of 40 CFR 51.166 referenced in this Paragraph are hereby adopted as requirements under this Rule, except as otherwise provided in this Rule. Wherever the language of the portions of 40 CFR 51.166

referenced in this Paragraph speaks of the "plan," the requirements described therein shall apply to the source to which they pertain, except as otherwise provided in this Rule. Whenever the portions of 40 CFR 51.166 referenced in this Paragraph provide that the State plan may exempt or not apply certain requirements in certain circumstances, those exemptions and provisions of nonapplicability are also hereby adopted under this Rule. However, this provision shall not be interpreted so as to limit information that may be requested from the owner or operator by the Director as specified in 40 CFR 51.166(n)(2).

(h) New natural gas-fired electrical utility generating units for which cost recovery is sought pursuant to G.S. 62-133.6 shall install best available control technology for NO_x and SO₂, regardless of the applicability of the rest of this Rule.

(i) For the purposes of this Rule, 40 CFR 51.166(w)(10)(iv)(a) shall read: "If the emissions level calculated in accordance with Paragraph (w)(6) of this Section is equal to or greater than 80 percent of the PAL level, the Director shall renew the PAL at the same level." 40 CFR 51.166(w)(10)(iv)(b) is not incorporated by reference.

(j) 15A NCAC 02Q .0102 shall not be applicable to any source to which this Rule applies. The owner or operator of the sources to which this Rule applies shall apply for and receive a permit as required in 15A NCAC 02Q .0300 or .0500.

(k) When a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the provisions of this Rule shall apply to the source or modification as though construction had not yet begun on the source or modification.

(l) For the purposes of this Rule, the provisions of 40 CFR 52.21(r)(2) regarding the period of validity of approval to construct are incorporated by reference except that the term "Administrator" shall be replaced with "Director".

(m) Volatile organic compounds exempted from coverage in 40 CFR 51.100(s) shall be exempted when calculating source applicability and control requirements under this Rule.

(n) The degree of emission limitation required for control of any air pollutant under this Rule shall not be affected by:

- (1) that amount of a stack height, not in existence before December 31, 1970, that exceeds good engineering practice; or
- (2) any other dispersion technique not implemented before December 31, 1970.

(o) A substitution or modification of a model as provided in 40 CFR 51.166(l) is subject to public comment procedures in accordance with the requirements of 40 CFR 51.102.

(p) Permits may be issued on the basis of innovative control technology as set forth in 40 CFR 51.166(s)(1) if the requirements of 40 CFR 51.166(s)(2) have been met, subject to the condition of 40 CFR 51.166(s)(3), and with the allowance set forth in 40 CFR 51.166(s)(4).

(q) If a source to which this Rule applies impacts an area designated Class I by requirements of 40 CFR 51.166(e), notice to EPA shall be provided as set forth in 40 CFR 51.166(p)(1). If the Federal Land Manager presents a demonstration described in 40 CFR 51.166(p)(3) during the public comment period or public

hearing to the Director and if the Director concurs with this demonstration, the permit application shall be denied. Permits may be issued on the basis that the requirements for variances as set forth in 40 CFR 51.166(p)(4), (p)(5) and (p)(7), or (p)(6) and (p)(7) have been satisfied.

(r) A permit application subject to this Rule shall be processed in accordance with the procedures and requirements of 40 CFR 51.166(q). Within 30 days of receipt of the application, applicants shall be notified if the application is complete as to the initial information submitted. Commencement of construction before full prevention of significant deterioration approval is obtained shall constitute a violation of this Rule.

(s) Approval of an application with regard to the requirements of this Rule shall not relieve the owner or operator of the responsibility to comply with applicable provisions of other rules of this Subchapter, Subchapter 02Q of this Title, or any other requirements under local, state, or federal law.

(t) When a source or modification is subject to this Rule the following procedures apply:

- (1) Notwithstanding any other provisions of this Paragraph, the Director shall, no later than 60 days after receipt of an application, notify the Federal Land Manager with the U.S. Department of Interior and U.S. Department of Agriculture of an application from a source or modification subject to this Rule;
- (2) If a source or modification may affect visibility of a Class I area, the Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application or within 30 days of receiving advance notification of an application. The notification shall be given at least 30 days prior to the publication of notice for public comment on the application. The notification shall include a copy of all information relevant to the permit application, including an analysis provided by the source of the potential impact of the proposed source on visibility;
- (3) The Director shall consider any analysis concerning visibility impairment performed by the Federal Land Manager if the analysis is received within 30 days of notification. If the Director finds that the analysis of the Federal Land Manager fails to demonstrate that an adverse impact on visibility will result in the Class I area, the Director shall follow the public hearing process described in 40 CFR 51.307(a)(3) on the application and include an explanation of the Director's decision or notice as to where the explanation can be obtained; and
- (4) The Director may require monitoring of visibility in or around any Class I area by the proposed new source or modification if the visibility impact analysis indicates possible visibility impairment, pursuant to 40 CFR 51.307.

(u) If the owner or operator of a source is using projected actual emissions to avoid applicability of prevention of significant deterioration requirements, the owner or operator shall notify the Director of the modification before beginning actual construction. The notification shall include:

- (1) a description of the project;
- (2) identification of sources whose emissions could be affected by the project;
- (3) the calculated projected actual emissions and an explanation of how the projected actual emissions were calculated, including identification of emissions excluded by 40 CFR 51.166(b)(40)(ii)(c);
- (4) the calculated baseline actual emissions and an explanation of how the baseline actual emissions were calculated; and
- (5) any netting calculations, if applicable.

If, upon reviewing the notification, the Director finds that the project will require a prevention of significant deterioration evaluation, the Director shall notify the owner or operator of his or her findings. The owner or operator shall not make the modification until a permit has been issued pursuant to this Rule. If a permit revision is not required pursuant to this Rule, the owner or operator shall maintain records of annual emissions in tons per year, on a calendar year basis related to the modifications, for 10 years following resumption of regular operations after the change if the project involves increasing the emissions unit's design capacity or its potential to emit the regulated NSR pollutant; otherwise, these records shall be maintained for five years following resumption of regular operations after the change. The owner or operator shall submit a report to the Director within 60 days after the end of each year during which these records must be generated. The report shall contain the items listed in 40 CFR 51.166(r)(6)(v)(a) through (c). The owner or operator shall make the information documented and maintained under this Paragraph available to the Director and the general public, pursuant to the requirements in 40 CFR 70.4(b)(3)(viii).

(v) Portions of the regulations in the Code of Federal Regulations (CFR) that are referred to in this Rule are incorporated by reference unless a specific reference states otherwise. The version of the CFR incorporated in this Rule, with respect to 40 CFR 51.166, is that as of July 1, 2014 at <https://www.gpo.gov/fdsys/pkg/CFR-2014-title40-vol2/pdf/CFR-2014-title40-vol2-sec51-166.pdf> and does not include any subsequent amendments or editions to the referenced material. The publication may be accessed free of charge.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(5); 143-215.107(a)(7); 143-215.108(b); Eff. June 1, 1981; Amended Eff. December 1, 1992; August 1, 1991; October 1, 1989; July 1, 1988; October 1, 1987; June 1, 1985; January 1, 1985; February 1, 1983; Temporary Amendment Eff. March 8, 1994, for a period of 180 days or until the permanent rule is effective, whichever is sooner; Amended Eff. September 1, 2017; September 1, 2013; January 2, 2011; September 1, 2010; May 1, 2008; July 28, 2006; July 1, 1997; February 1, 1995; July 1, 1994.

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's rules shall be located according to whichever of the following is applicable:

- (1) The ocean hazard setback for development shall be measured in a landward direction from the vegetation line, the static vegetation line, or the measurement line, whichever is applicable.
- (2) In areas with a development line, the ocean hazard setback shall be set in accordance with Subparagraphs (a)(3) through (9) of this Rule. In no case shall new development be sited seaward of the development line.
- (3) In no case shall a development line be created or established on state owned lands or oceanward of the mean high water line or perpetual property easement line, whichever is more restrictive.
- (4) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:
 - (A) The total square footage of heated or air-conditioned living space;
 - (B) The total square footage of parking elevated above ground level; and
 - (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.
 Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.
- (5) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:
 - (A) A building or other structure less than 5,000 square feet requires a minimum

- setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
 - (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
 - (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
 - (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
 - (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
 - (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
 - (H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
 - (I) Infrastructure that is linear in nature, such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water, and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
 - (J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
 - (K) Notwithstanding any other setback requirement of this Subparagraph, a building or other structure greater than or equal to 5,000 square feet in a community with a static line exception in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater. The setback shall be measured landward from either the static vegetation line, the vegetation line, or measurement line, whichever is farthest landward; and
 - (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of single-family or duplex residential structures with a total floor area greater than 5,000 square feet, and commercial and multi-family residential structures with a total floor area no greater than 10,000 square feet, shall be allowed provided that the structure meets the following criteria:
 - (i) the structure was originally constructed prior to August 11, 2009;
 - (ii) the structure as replaced does not exceed the original footprint or square footage;
 - (iii) it is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(5) of this Rule;
 - (iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; and
 - (v) the structure is rebuilt as far landward on the lot as feasible.
 - (6) If a primary dune exists in the AEC on or landward of the lot where the development is proposed, the development shall be landward of the crest of the primary dune, the ocean hazard setback, or development line, whichever is farthest from vegetation line, static vegetation line, or measurement line, whichever is applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback, but shall

not be located on or oceanward of a frontal dune or the development line. The words "existing lots" in this Rule shall mean a lot or tract of land that, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.

- (7) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune, ocean hazard setback, or development line, whichever is farthest from the vegetation line, static vegetation line, or measurement line, whichever is applicable.
- (8) If neither a primary nor frontal dune exists in the AEC on or landward of the lot where development is proposed, the structure shall be landward of the ocean hazard setback or development line, whichever is more restrictive.
- (9) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically, but shall not be structurally, attached to an existing structure that does not conform with current setback requirements.
- (10) Established common law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.
- (11) Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the static vegetation line as defined in this Section, unless a development line has been approved by the Coastal Resources Commission in accordance with 15A NCAC 07J .1300.
- (12) In order to allow for development landward of the large-scale beach fill project that cannot meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line set forth in Subparagraphs (a)(1) and (a)(5) of this Rule, a local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has

jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for a "static line exception" in accordance with 15A NCAC 07J .1200. The static line exception shall apply to development of property that lies both within the jurisdictional boundary of the petitioner and the boundaries of the large-scale beach fill project. This static line exception shall also allow development greater than 5,000 square feet to use the setback provisions defined in Part (a)(5)(K) of this Rule in areas that lie within the jurisdictional boundary of the petitioner, and the boundaries of the large-scale beach fill project. If the request is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the static vegetation line under the following conditions:

- (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(5) of this Rule;
- (B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;
- (C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater;
- (D) With the exception of swimming pools, the development defined in Rule .0309(a) of this Section shall be allowed oceanward of the static vegetation line; and
- (E) Development shall not be eligible for the exception defined in Rule .0309(b) of this Section.

(b) No development shall be permitted that involves the removal or relocation of primary or frontal dune sand or vegetation thereon that would adversely affect the integrity of the dune. Other dunes within the ocean hazard area shall not be disturbed unless the development of the property is otherwise impracticable. Any

disturbance of these other dunes shall be allowed only to the extent permitted by 15A NCAC 07H .0308(b).

(c) Development shall not cause irreversible damage to historic architectural or archaeological resources as documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or the National Historical Registry.

(d) Development shall comply with minimum lot size and set back requirements established by local regulations.

(e) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.

(f) Development shall comply with the general management objective for ocean hazard areas set forth in 15A NCAC 07H .0303.

(g) Development shall not interfere with legal access to, or use of, public resources, nor shall such development increase the risk of damage to public trust areas.

(h) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:

- (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
- (2) restore the affected environment; or
- (3) compensate for the adverse impacts by replacing or providing substitute resources.

(i) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. The acknowledgement shall state that the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.

(j) All relocation of structures shall require permit approval. Structures relocated with public funds shall comply with the applicable setback line and other applicable AEC rules. Structures, including septic tanks and other essential accessories, relocated entirely with non-public funds shall be relocated the maximum feasible distance landward of the present location. Septic tanks shall not be located oceanward of the primary structure. All relocation of structures shall meet all other applicable local and state rules.

(k) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed pursuant to 15A NCAC 07H .0308(a)(2).

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124;

Eff. September 9, 1977;

Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985;

RRC Objection due to ambiguity Eff. January 24, 1992;

Amended Eff. March 1, 1992;

RRC Objection due to ambiguity Eff. May 21, 1992;

Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992;

RRC Objection due to ambiguity Eff. May 18, 1995;

Amended Eff. August 11, 2009; April 1, 2007; November 1, 2004; June 27, 1995;

Temporary Amendment Eff. January 3, 2013;

Amended Eff. September 1, 2017; February 1, 2017; April 1, 2016; September 1, 2013.

15A NCAC 07J .1301 REQUESTING THE DEVELOPMENT LINE

(a) Any local government, group of local governments involved in a regional beach fill project, or qualified owner's association with territorial jurisdiction over an area that is subject to ocean hazard area setbacks pursuant to 15A NCAC 07H .0305 may petition the Coastal Resources Commission for a development line for the purpose of siting oceanfront development in accordance with the provisions of this Section. A "qualified owner's association" is an owner's association, as defined in G.S. 47F-1-103(3), that has authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline.

(b) A development line request shall apply to the entire large-scale project area as defined in 15A NCAC 07H .0305(a)(7) and, at the petitioner's request, may be extended to include the entire oceanfront jurisdiction or legal boundary of the petitioner.

(c) In determining where to position a requested development line, the petitioner shall use an adjacent neighbor sight-line approach, resulting in an average line of structures. In areas where the seaward edge of existing development is not linear, the petitioner may determine an average line of construction on a case-by-case basis. In no case shall a development line be established seaward of the most seaward structure within the petitioner's oceanfront jurisdiction.

(d) An existing structure that is oceanward of an approved development line may remain in place until damaged greater than 50 percent in accordance with Rule .0210 of this Subchapter. At that time it may only be replaced landward of the development line and shall meet the applicable ocean hazard setback requirements as defined in 15A NCAC 07H .0306(a).

(e) A request for a development line or amendment shall be made in writing by the petitioner and submitted to the CRC by sending the written request to the Director of the Division of Coastal Management. A complete request shall include the following:

- (1) A detailed survey of the development line using on-ground observation and survey or aerial imagery along the oceanfront jurisdiction or legal boundary, including:
 - (A) The development line, static vegetation line, mean high water line, and any other information necessary

for a review of the petitioner's proposed development line, such as a pre-nourishment project mean high water line, local ordinances, or easements; and

(B) Surveyed development line spatial data in a geographic information systems (GIS) format referencing North Carolina State Plane North American Datum 83 US Survey Foot, to include Federal Geographic Data Committee (FGDC) compliant metadata;

- (2) All local regulations associated with the development line;
- (3) A record of local adoption of the development line by the petitioner; and
- (4) Documentation of incorporation of a development line into local ordinances or rules and regulations of an owner's association.

(f) Once a development line is approved by the Coastal Resources Commission, only the petitioner may request a change or reestablishment of the position of the development line.

(g) A development line request shall be submitted to the Director of the Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557. Written acknowledgement of the receipt of a completed development line request, including notification of the date of the meeting at which the request will be considered by the Coastal Resources Commission, shall be provided to the petitioner by the Division of Coastal Management.

(h) The Coastal Resources Commission shall consider a development line request no later than the second scheduled meeting following the date of receipt of a complete request by the Division of Coastal Management, unless the petitioner and the Division of Coastal Management agree upon a later date.

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124; Eff. April 1, 2016; Amended Eff. September 1, 2017.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 07 - CEMETERY COMMISSION

21 NCAC 07D .0101 REPORT

(a) Each licensed cemetery shall make a report of deposits to the perpetual care fund by the last day of each month.

(b) The report of deposits shall be made on a form provided by the Commission, the Report of Grave Spaces for the Month of _____, that shall include:

- (1) the deed numbers, listed in numerical order;
- (2) the date of deed;
- (3) the date of contract;
- (4) the purchaser;
- (5) the sale price;
- (6) the lot number;

- (7) the section; and
- (8) the number of spaces deeded and amount due trust fund.

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

History Note: Authority G.S. 65-49; 65-64; Eff. February 1, 1976; Readopted Eff. January 16, 1978; Amended Eff. September 1, 2017; September 1, 2007; May 3, 1993; September 1, 1979.

CHAPTER 18 – BOARD OF ELECTRICAL CONTRACTORS

21 NCAC 18B .0110 PRODUCTION OF PUBLIC RECORDS

(a) Records of current license status shall be available without charge on the Board website, www.ncbeec.org.

(b) Production of license history or verification of license of licensees or qualified individuals shall be available at a cost of twenty-five dollars (\$25.00) for each report.

History Note: Authority G.S. 87-42; 87-44; 93B-3; 132-6.2; 150B-19; Eff. October 1, 2017.

21 NCAC 18B .0201 REQUIREMENTS FOR ALL EXAMINATION APPLICANTS

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

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

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

- (1) Limited classification. An applicant shall have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both.
- (2) Intermediate classification. An applicant shall have four years of experience, as defined in Rule .0202 of this Section, of which two and one half years shall be primary experience. The balance of experience may be primary, secondary, or both.
- (3) Unlimited classification. An applicant shall:
 - (A) have five years of experience, as defined in Rule .0202 of this Section,

- of which four years shall be primary experience. The balance of experience may be primary, secondary, or both; and
- (B) submit with the application written statements from two persons who are knowledgeable of the applicant's electrical experience, attesting to the applicant's ability to supervise and direct all electrical wiring or electrical installation work of an electrical contracting business in the unlimited classification.
- (4) Single family detached residential dwelling (SP-SFD) classification. An applicant shall have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both.
- (5) Special restricted fire alarm/low voltage (SP-FA/LV) classification. An applicant shall have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification may also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the low voltage field.
- (6) Special restricted elevator (SP-EL) classification. An applicant shall:
 - (A) have four years of experience, as defined in Rule .0202 of this Section, of which two and one-half years shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the elevator field; and
 - (B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful elevator business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.
- (7) Special restricted plumbing and heating (SP-PH) classification. An applicant shall:
 - (A) have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for
- service in any of the capacities listed in Rule .0202 that the applicant gained in the plumbing, heating, or air conditioning field; and
- (B) include on the application information verifying that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful plumbing, heating, or air conditioning business in this State consistent with G.S. 87-43 and 21 NCAC 18B .0301.
- (8) Special restricted ground water pump (SP-WP) classification. An applicant shall:
 - (A) have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the ground water pump field; and
 - (B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful ground water pump business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.
- (9) Special restricted electric sign (SP-ES) classification. An applicant shall:
 - (A) have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience be primary, secondary, or both. An applicant in this classification shall also receive creditable experience in any of the capacities listed in Rule .0202 that the applicant gained in the electric sign field; and
 - (B) include on the application information to establish that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful electric sign business in this State.
- (10) Special restricted swimming pool (SP-SP) classification. An applicant shall:
 - (A) have two years of experience, as defined in Rule .0202 of this Section, of which one year shall be primary experience. The balance of experience may be primary, secondary, or both. An applicant in this classification shall

- also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the swimming pool field; and
- (B) include on the application information verifying that the applicant is regularly on active duty in, and will be the listed qualified individual for a firm that is primarily engaged in, a lawful swimming pool business in this State, consistent with G.S. 87-43 and 21 NCAC 18B .0301.

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; 87-44; Eff. October 1, 1988; Amended Eff. January 1, 2010; March 1, 1999; February 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff. October 1, 2017.

21 NCAC 18B .0202 EXPERIENCE

(a) Primary. As used in this Chapter, primary experience means working experience gained by the applicant while engaged in the installation of electrical wiring and equipment governed by the National Electrical Code or work activities related thereto. Examples of the capacity in which a person may work in gaining primary experience and the percentages for creditable primary experience are as follows:

	Percentage
(1) journeyman electrician or electrician mechanic;	100
(2) electrical foreman;	100
(3) electrical general foreman;	100
(4) electrical superintendent;	100
(5) electrical general superintendent;	100
(6) estimator for licensed electrical contractor;	100
(7) electrical inspector recognized as such by the State Department of Insurance;	100
(8) time spent by a professional engineer who is responsible for follow-up project supervision, beyond the point of delivery, in electrical engineering, design, or consulting;	100
(9) full-time instructor teaching National Electrical Code, NFPA 72, and related electrical courses at a college, university, community college, technical institute, high school, or vocational school;	80
(10) maintenance journeyman electrician or electrician mechanic employed in a full-time electrical maintenance department;	100
(11) time spent in electrical maintenance by a maintenance journeyman electrician or electrician mechanic employed in other than a full-time electrical maintenance department;	100
(12) military person holding an electrician rating or rank of at least E-4 who is engaged in land-based electrical installations similar or	

- | | | |
|------|---|-----|
| | equivalent to work performed by an electrical contractor; | 100 |
| (13) | electrical installations similar or equivalent to work performed by an electrical contractor; | 100 |
| (14) | time spent in part-time or incidental work in any primary experience category; | 100 |
| (15) | time spent installing or maintaining fire alarm or low voltage systems; | 100 |
| (16) | time as a holder of NICET (National Institute for Certification in Engineering Technologies) certification on NFPA 72 Level I, II, III or IV applicable to Fire Alarm-Low Voltage license only. | 100 |

In calculating accumulative primary experience, a total of 2,000 hours shall equal one creditable year. For example, an applicant who has worked in a primary capacity for a total of 7,200 hours has 3.6 years of creditable primary work experience.

(b) Secondary. As used in this Chapter, secondary experience means working experience gained while engaged in work or training that is related to the installation of electrical wiring and equipment governed by the National Electrical Code. Examples of the type of work or training in which a person may engage to gain creditable secondary experience and the percentages for creditable secondary experience are as follows:

		Percentage
(1)	apprentice electrician training in an apprentice program approved by the North Carolina Department of Labor;	100
(2)	time spent as an apprentice electrician or helper other than as described in Subparagraph (1) and (3) of this Paragraph;	80
(3)	time spent in electrical maintenance by a maintenance apprentice or electrician helper employed in other than a full-time electrical maintenance department;	80
(4)	student satisfactorily completing National Electrical Code and related electrical courses at a college, university, community college, technical institute, high school, or vocational school;	50
(5)	time spent by a professional engineer who is not responsible for follow-up project supervision, beyond the point of delivery, in electrical engineering, design, or consulting;	50
(6)	electrical construction design under the supervision of a professional engineer;	50
(7)	sales representative for an electrical wholesaler, distributor, or manufacturer;	20
(8)	appliance service and repair;	20
(9)	electric utility lineman; and	10
(10)	electric utility serviceman.	20

In calculating cumulative secondary experience, a total of 2,000 hours shall equal one creditable year. The total number of creditable years shall be calculated by applying the percentage for creditable secondary experience and dividing the remainder hours by 2,000. For example, an Applicant who has 1,000 hours of work experience as a helper or regular apprentice and 2,200 hours of

experience while enrolled in an approved apprentice training program has 1.5 years of creditable secondary experience.

(c) Other Experience. The Board shall approve other experience that is equivalent or similar to the primary or secondary experience defined in this Rule.

History Note: Authority G.S. 87-42; 87-43.2; 87-43.3; 87-43.4; Eff. October 1, 1988; Amended Eff. January 1, 2010; March 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff. October 1, 2017.

21 NCAC 18B .0204 EXAMINATIONS

(a) All qualifying examinations administered by the Board for each license classification shall be written or computer-based examinations and shall be taken personally by the applicant after the applicant has met the requirements for examination contained in the rules in this Subchapter.

(b) Upon approval of an application pursuant to these Rules, the Board shall provide the applicant a notice of examination eligibility that is valid for a period of three months and for a single administration of the qualifying examination. Upon receipt of a notice of examination eligibility from the Board, the applicant may schedule the examination by contacting the Board or the authorized testing service. The applicant shall be scheduled for the examination by the Board and the Board or authorized testing service shall confirm the date, time, and place.

(c) A minimum grade of 70 out of a possible score of 100 shall be required in order to pass any qualifying examination administered by the Board.

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; 93B-8; Eff. October 31, 1988; Temporary Amendment Eff. August 31, 2001; Amended Eff. July 1, 2011; January 1, 2006; July 18, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff. October 1, 2017.

21 NCAC 18B .0404 ANNUAL LICENSE FEES

(a) The fee for issuance of license, reissuance of license, or license renewal in the various license classifications shall be as follows:

LICENSE FEE SCHEDULE	
CLASSIFICATION	LICENSE FEE
Limited	\$ 85.00
Intermediate	\$130.00
Unlimited	\$180.00
SP-SFD	\$ 85.00
Special Restricted	\$ 85.00

(b) License fees shall be made payable to the Board. Payment shall accompany any license or license renewal application filed with the Board.

History Note: Authority G.S. 87-42; 87-44; Eff. October 1, 1988;

Amended Eff. May 1, 1998; July 1, 1989; Temporary Amendment Eff. June 30, 2000; Temporary Amendment Eff. August 31, 2001; Amended Eff. July 1, 2015; January 1, 2008; December 4, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff. October 1, 2017.

21 NCAC 18B .0501 RECLASSIFICATION OF CURRENT LICENSE

(a) A licensee may have the license classification lowered from unlimited to intermediate or limited, or from intermediate to limited, by:

- (1) filing with the Board, in writing, a request for the lowering of the license classification; and
- (2) surrendering the current license certificate to the Board for replacement as requested.

(b) A licensee may have a license that was lowered pursuant to Paragraph (a) of this Rule raised to a classification up to and including that classification from which it was lowered by:

- (1) filing with the Board, in writing, a request for the raising of the license classification;
- (2) surrendering the current license certificate to the Board for replacement as requested; and
- (3) paying the applicable license fee.

(c) A limited or intermediate licensee whose license has not been lowered pursuant to Paragraph (a) of this Rule may have the license classification raised to intermediate or unlimited by:

- (1) submitting an application on a form available on the Board website indicating the classification of the license desired;
- (2) meeting all the requirements for the classification in effect when the application is submitted, including taking and passing the examination; and
- (3) paying the applicable license fee.

(d) Licenses in the single family detached residential dwelling classification and in any special restricted classification shall not be subject to reclassification. A change in these classifications may be effected only on the basis of a new application subject to all applicable processing and examination requirements.

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; Eff. October 1, 1988; Amended Eff. March 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff. October 1, 2017.

21 NCAC 18B .0504 QUALIFIED INDIVIDUAL – LISTING OPTIONS AFTER EXPIRATION

(a) A qualified individual who was formerly but is not now listed on any license may apply for and obtain a license upon meeting all current licensing requirements not previously met and by submitting to the Board:

- (1) a license application on a form available on the Board website;
- (2) payment of the appropriate license fee; and

- (3) if more than 12 months has elapsed since the qualified individual was listed on an active license, information to establish that, during the 12 month period immediately preceding the date the application is filed with the Board, the qualified individual has obtained at least 500 hours of primary experience as defined in Rule .0202 of this Subchapter within the most recent 12 months, has met the fee requirements set forth in Rule .0404 of this Subchapter, pays the late fee set forth in Rule .0405 of this Subchapter, and meets the continuing education requirements set forth in Rule .1101 of this Subchapter.

(b) A qualified individual who was formerly but is not now listed on any license may be listed on a current active license in the same or a lower classification as the classification of examination that he or she has passed by submitting to the Board:

- (1) a written request from the licensee, co-signed by the qualified individual, requesting the Board to list the qualified individual on the license;
- (2) a copy of the licensee's current license certificate; and
- (3) if more than 12 months has elapsed since the qualified individual was listed on an active license, information to establish that, during the 12 month period immediately preceding the date the application is filed with the Board, the qualified individual has obtained at least 500 hours of primary experience as defined in Rule .0202 of this Subchapter within the most recent 12 months, has met the fee requirements set forth in Rule .0404 of this Subchapter, pays the late fee set forth in Rule .0405 of this Subchapter, and meets the continuing education requirements set forth in Rule .1101 of this Subchapter.

History Note: Authority G.S. 87-42; 87-43; Eff. October 1, 1988; Amended Eff. March 1, 1999; February 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff October 1, 2017.

21 NCAC 18B .0505 QUALIFIED INDIVIDUAL – INITIAL LISTING OPTIONS

A qualified individual who has passed the qualifying examination for a license but has never obtained a license nor been a listed qualified individual on any license shall:

- (1) be eligible to obtain a license in the same or lower classification as the classification of examination that he or she has passed upon meeting all current licensing requirements not previously met and by submitting to the Board:
 - (a) a license application on a form available on the Board website;

- (b) payment of the appropriate license fee; and
- (c) if more than 12 months has elapsed since the qualified individual passed the qualifying examination for a license, information to establish that, during the 12 month period immediately preceding the date the application is filed with the Board, the qualified individual has obtained at least 500 hours of primary experience as defined in Rule .0202 of this Subchapter within the most recent 12 months, has met the fee requirements set forth in 4 Rule .0404 of this Subchapter, pays the late fee set forth in Rule .0405 of this Subchapter, and meets the continuing education requirements set forth in Rule .1101 of this Subchapter.

(2) be eligible to be included as a listed qualified individual on a current active license in the same or a lower classification as the classification of examination he or she has passed upon submitting to the Board:

- (a) a written request from the licensee, co-signed by the qualified individual, requesting the Board to list the qualified individual on the license;
- (b) a copy of the licensee's current license certificate; and
- (c) if more than 12 months has elapsed since the individual passed the qualifying examination for a license, information to establish that, during the 12 month period immediately preceding the date the application is filed with the Board, the qualified individual has obtained at least 500 hours of primary experience as defined in Rule .0202 of this Subchapter within the most recent 12 months, has met the fee requirements set forth in Rule .0404 of this Subchapter, pays the late fee set forth in Rule .0405 of this Subchapter, and meets the continuing education requirements set forth in Rule .1101 of this Subchapter.

History Note: Authority G.S. 87-42; 87-43; Eff. October 1, 1988; Amended Eff. March 1, 1999; February 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff October 1, 2017.

CHAPTER 34 – BOARD OF FUNERAL SERVICE

21 NCAC 34B .0617 PRACTICING DURING DISASTERS

(a) Upon the declaration of a state of emergency, as provided in G.S. 166A-19.20, the Board may waive, for a period not to exceed 120 days following the rescission of the declaration of a state of emergency, any requirement of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706. Only those funeral establishments impacted by and located in a county in which the state of emergency has been declared shall be eligible for a waiver.

(b) Any funeral establishment seeking a waiver pursuant to this Rule shall request the same on a form prescribed by the Board, to include the following:

- (1) name and permit number of the funeral establishment making the waiver request;
- (2) a description of the circumstances giving rise to the request;
- (3) a plan for correcting any violations of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706 caused by the emergency; and
- (4) the anticipated time frame that the funeral establishment will return to full compliance with G.S. 90-210.27A and 21 NCAC 34B .0702-.0706.

(c) A funeral establishment seeking to extend a waiver in excess of 120 days shall provide a written request and explanation to the Board for its consideration. It shall be within the discretion of the Board to grant or deny an extension request, based on the following criteria:

- (1) the degree of risk of harm, if any, that the continued non-compliance poses to the general public;
- (2) the efforts undertaken by the funeral establishment towards compliance with the plan submitted to the Board at the time of its initial waiver request; and
- (3) the circumstances surrounding the funeral establishment's request for additional time.

History Note: Authority G.S. 90-210.23(d),(e); 90-210.25(d); 90-210.27A;
Eff. September 1, 2017.

21 NCAC 34B .0618 PRACTICING DURING EMERGENCIES

(a) When a funeral establishment experiences an emergency occurrence or imminent threat of damage, injury, or loss of property resulting from a natural or man-made incident, the Board may waive, for a period not to exceed 120 days, any requirement of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706. The funeral establishment may continue to operate if it has provided evidence that the emergency does not pose an immediate threat to human life, an immediate threat of serious physical injury, or an immediate threat of serious adverse health effects.

(b) Any funeral establishment seeking a waiver pursuant to this Rule shall request the same on a form prescribed by the Board, to include the following:

- (1) name and permit number of the funeral establishment making the waiver request;
- (2) a description of the circumstances giving rise to the request;
- (3) a plan for correcting any violations of G.S. 90-210.27A and 21 NCAC 34B .0702-.0706 caused by the emergency; and
- (4) the anticipated time frame that the funeral establishment will return to full compliance with G.S. 90-210.27A and 21 NCAC 34B .0702-.0706.

(c) A funeral establishment seeking to extend a waiver in excess of 120 days shall provide a written request and explanation to the Board for its consideration. It shall be within the discretion of the Board to grant or deny an extension request, based on the following criteria:

- (1) the degree of risk of harm, if any, that the continued non-compliance poses to the general public;
- (2) the efforts undertaken by the funeral establishment towards compliance with the plan submitted to the Board at the time of its initial waiver request; and
- (3) the circumstances surrounding the funeral establishment's request for additional time.

History Note: Authority G.S. 90-210.23(d),(e); 90-210.25(d); 90-210.27A;
Eff. September 1, 2017.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission October 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)
Andrew P. Atkins
Anna Baird Choi
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

October 19, 2017 November 16, 2017
December 14, 2017 January 18, 2018

AGENDA

RULES REVIEW COMMISSION

THURSDAY, OCTOBER 19, 2017 10:00 A.M.

1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Commission for Mental Health, Developmental Disabilities and Substance Abuse Services - 10A NCAC 27H .0205, .0206 (May)
 - B. Social Services Commission - 10A NCAC 97B .0401, .0402, .0403; 97C .0104, .0106, .0108, .0109, .0111 (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed August 22, 2017 through September 20, 2017
 - Pre-Reviewed Rules
 - Soil and Water Conservation Commission (Thomas)
 - Office of the Commissioner of Banks (Hammond)
 - Department of Revenue (May)
 - Local Government Commission (Reeder)
 - Board of Dental Examiners (Reeder)
 - Non Pre-Reviewed Rules
 - Board of Agriculture (Reeder)
 - Industrial Commission (Reeder)
 - Commissioner of Insurance (Thomas)
 - Sheriffs Education and Training Standards Commission (Thomas)
 - Private Protective Services Board (Thomas)
 - Wildlife Resources Commission (May)
 - Capital Facilities Finance Agency (Reeder)
 - Board of Architecture (Reeder)

- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
 - Review of Reports
 1. 10A NCAC 13C – Medical Care Commission (May)
 2. 10A NCAC 42 - Commission for Public Health (Reeder)
 3. 10A NCAC 43D - Commission for Public Health (Reeder)
 4. 10A NCAC 44 - Commission for Public Health (Reeder)
 5. 15A NCAC 02K – Environmental Management Commission (Thomas)
 - Not scheduled for review this month
 6. 21 NCAC 16 – Board of Dental Examiners (Hammond)
 7. 21 NCAC 66 – Veterinary Medical Board (Reeder)
- VII. Commission Business
 - Next meeting: Thursday, November 16, 2017

**Commission Review
Log of Permanent Rule Filings
August 22, 2017 through September 20, 2017**

AGRICULTURE, BOARD OF

The rules in Subchapter 9G concern milk and milk products including the pasteurized milk ordinance (.0100); and grade a milk sanitation (.2000).

Restriction on Dispensing Raw Milk 02 NCAC 09G .2010
Readopt without Changes/*

The rules in Chapter 37 concern agronomic services.

Nematode Advisory Service 02 NCAC 37 .0203
Readopt with Changes/*

The rules in Subchapter 52J are enforced by the animal welfare section and include rules about record keeping and licensing (.0100); facilities and operating standards (.0200); transportation standards (.0300); euthanasia standards (.0400); euthanasia by injection (.0500); euthanasia by carbon monoxide (.0600); extraordinary circumstances (.0700); and policy and procedure manual (.0800).

Eligible Expenses 02 NCAC 52J .0901
Adopt/*

Application Guidelines 02 NCAC 52J .0902
Adopt/*

SOIL AND WATER CONSERVATION COMMISSION

The rules in Subchapter 59C concern the small watershed program including watershed loans (.0100); watershed applications (.0200); small watershed plans (.0300); and small watershed grants (.0400).

Approvals to Exercise the Power of Eminent Domain 02 NCAC 59C .0303
Readopt without Changes/*

The rules in Subchapter 59E concern procedures and guidelines to implement the nondischarge rule for animal waste management systems.

RULES REVIEW COMMISSION

<u>Purpose</u> Readopt with Changes/*	02	NCAC	59E	.0101
<u>Definitions</u> Readopt with Changes/*	02	NCAC	59E	.0102
<u>Requirements for Certification of Waste Management Plans</u> Readopt with Changes/*	02	NCAC	59E	.0103
<u>Approved Best Management Practices (BMPS)</u> Readopt with Changes/*	02	NCAC	59E	.0104
<u>Technical Specialist Designation</u> Repeal/*	02	NCAC	59E	.0105

The rules in Subchapter 59F concern the state portion of the conservation reserve enhancement program (CREP)

<u>Noncompliance with CREP Agreement</u> Readopt with Changes/*	02	NCAC	59F	.0106
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The rules in Subchapter 59H concern the community conservation assistance program for non-point source pollution control.

<u>Purpose</u> Readopt with Changes/*	02	NCAC	59G	.0101
<u>Definitions</u> Readopt with Changes/*	02	NCAC	59G	.0102
<u>Approval of Best Management Practices (BMPS)</u> Readopt with Changes/*	02	NCAC	59G	.0103
<u>Approval of Water Quality Technical Specialists</u> Readopt with Changes/*	02	NCAC	59G	.0104
<u>Application of BMP Approval and Technical Specialist Desi...</u> Readopt with Changes/*	02	NCAC	59G	.0105

INDUSTRIAL COMMISSION

The rules in Subchapter 10J concern the fees for medical compensation.

<u>Fees for Institutional Services</u> Amend/*	04	NCAC	10J	.0103
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BANKS, OFFICE OF THE COMMISSIONER OF

The rules in Chapter 16 concern the Savings Institutions Division and the Savings Institutions Division.

The rules in Subchapter 16A concern general provisions (.0100); rule-making hearings (.0200); declaratory rulings (.0300); and administrative hearings (.0400).

<u>Savings Institutions Division</u> Repeal/*	04	NCAC	16A	.0101
<u>Supervisory Fee</u> Repeal/*	04	NCAC	16A	.0104
<u>Restrictions: Payment of Dividends and Repurchase of Stock</u> Amend/*	04	NCAC	16A	.0105
<u>Petition for Adoption, Amendment or Repeal of Rules</u> Repeal/*	04	NCAC	16A	.0201
<u>Notice of Rule-Making Hearings</u> Repeal/*	04	NCAC	16A	.0202

RULES REVIEW COMMISSION

<u>Rule-Making Hearings: General Information</u> Repeal/*	04	NCAC	16A	.0203
<u>Petition for Declaratory Ruling</u> Repeal/*	04	NCAC	16A	.0301
<u>Response of Commissioner of Banks to Petition</u> Repeal/*	04	NCAC	16A	.0302
<u>Right to Hearing</u> Repeal/*	04	NCAC	16A	.0401
<u>Informal Settlement</u> Repeal/*	04	NCAC	16A	.0402
<u>Request for Hearing</u> Repeal/*	04	NCAC	16A	.0403
<u>Notice of Hearing</u> Repeal/*	04	NCAC	16A	.0404
<u>Intervention in an Administrative Hearing</u> Repeal/*	04	NCAC	16A	.0405
<u>Depositions</u> Repeal/*	04	NCAC	16A	.0406
<u>Subpoenas</u> Repeal/*	04	NCAC	16A	.0407
<u>Service of Subpoenas</u> Repeal/*	04	NCAC	16A	.0408
<u>Objection to Subpoena</u> Repeal/*	04	NCAC	16A	.0409

The rules in Subchapter 16C concern applications including charter application (.0100); branch office application (.0200); application to change location of branch office or principal office (.0300); remote service units (.0400); and interstate reciprocal acquisitions (.0500).

<u>Forms</u> Repeal/*	04	NCAC	16C	.0101
<u>Charter Application Restrictions</u> Repeal/*	04	NCAC	16C	.0102
<u>Corporate Name</u> Repeal/*	04	NCAC	16C	.0103
<u>Interim Savings Institutions</u> Repeal/*	04	NCAC	16C	.0104
<u>Conversion to Savings Bank</u> Repeal/*	04	NCAC	16C	.0105
<u>Form</u> Repeal/*	04	NCAC	16C	.0201
<u>Branch Office Application Restrictions</u> Repeal/*	04	NCAC	16C	.0202
<u>Forfeiture of Branch Office Final Approval</u> Repeal/*	04	NCAC	16C	.0203
<u>Temporary Closing of Office</u> Amend/*	04	NCAC	16C	.0304
<u>Purchase of Branch</u> Repeal/*	04	NCAC	16C	.0305
<u>Definitions</u> Repeal/*	04	NCAC	16C	.0401
<u>Application: Guidelines for Approval by Administrator</u> Repeal/*	04	NCAC	16C	.0402

RULES REVIEW COMMISSION

<u>General Policies</u> Repeal/*	04	NCAC	16C	.0403
<u>Unmanned Remote Service Unit Access Techniques</u> Repeal/*	04	NCAC	16C	.0404
<u>Privacy of Account Data</u> Repeal/*	04	NCAC	16C	.0405
<u>Form</u> Repeal/*	04	NCAC	16C	.0501
<u>Acquisition Restrictions</u> Repeal/*	04	NCAC	16C	.0502
<u>Fees</u> Repeal/*	04	NCAC	16C	.0503

The rules in Subchapter 16D concern the operation of savings associations including directors, officers and employees (.0100); proxies (.0200); records (.0300); loans (.0400); withdrawable accounts (.0500); and investments (.0900).

<u>Composition of Board of Directors</u> Repeal/*	04	NCAC	16D	.0101
<u>Bylaws</u> Repeal/*	04	NCAC	16D	.0103
<u>Voting by Proxy</u> Repeal/*	04	NCAC	16D	.0201
<u>Form of Proxy</u> Repeal/*	04	NCAC	16D	.0202
<u> Holders of Proxies</u> Repeal/*	04	NCAC	16D	.0203
<u>Proxy Solicitation</u> Repeal/*	04	NCAC	16D	.0204
<u>General Policies</u> Repeal/*	04	NCAC	16D	.0301
<u>Retention: Reproduction and Disposition of Records</u> Repeal/*	04	NCAC	16D	.0302
<u>Servicing Loans</u> Repeal/*	04	NCAC	16D	.0401
<u>Appraisals</u> Repeal/*	04	NCAC	16D	.0402
<u>Records with Respect to Loan</u> Repeal/*	04	NCAC	16D	.0403
<u>Unsecured Loan Limit</u> Repeal/*	04	NCAC	16D	.0405
<u>Loans to One Borrower</u> Repeal/*	04	NCAC	16D	.0407
<u>Signature Cards</u> Repeal/*	04	NCAC	16D	.0501
<u>Holding of Certificate or Passbook</u> Repeal/*	04	NCAC	16D	.0502
<u>Negotiable Order or Withdrawal Accounts</u> Repeal/*	04	NCAC	16D	.0504
<u>Securities</u> Repeal/*	04	NCAC	16D	.0901
<u>Stock in Other Depository Institutions</u> Repeal/*	04	NCAC	16D	.0902

The rules in Subchapter 16E concern the operation of savings banks including directors, bylaws and charter (.0100); proxies (.0200); records and policies (.0300); loans (.0400); deposit accounts (.0500); liquidity and net worth (.0600); and investments (.0700).

<u>Board of Directors</u>	04	NCAC	16E	.0103
Amend/*				
<u>Bylaws</u>	04	NCAC	16E	.0104
Amend/*				
<u>Voting by Proxy</u>	04	NCAC	16E	.0201
Repeal/*				
<u>Form of Proxy</u>	04	NCAC	16E	.0202
Repeal/*				
<u>Holders of Proxies</u>	04	NCAC	16E	.0203
Repeal/*				
<u>Proxy Solicitation</u>	04	NCAC	16E	.0204
Repeal/*				
<u>General Policies</u>	04	NCAC	16E	.0301
Amend/*				
<u>Retention, Reproduction and Disposition of Records</u>	04	NCAC	16E	.0302
Amend/*				
<u>Required Policies</u>	04	NCAC	16E	.0303
Repeal/*				
<u>Servicing Loans</u>	04	NCAC	16E	.0401
Amend/*				
<u>Appraisals</u>	04	NCAC	16E	.0402
Repeal/*				
<u>Records with Respect to Loan</u>	04	NCAC	16E	.0403
Amend/*				
<u>Unsecured Loan Limit</u>	04	NCAC	16E	.0404
Repeal/*				
<u>Loans to One Borrower</u>	04	NCAC	16E	.0405
Repeal/*				
<u>Signature Cards</u>	04	NCAC	16E	.0501
Repeal/*				
<u>Holding of Certificate or Passbook</u>	04	NCAC	16E	.0502
Amend/*				
<u>Liquidity</u>	04	NCAC	16E	.0601
Repeal/*				
<u>Net Worth</u>	04	NCAC	16E	.0602
Repeal/*				
<u>Securities</u>	04	NCAC	16E	.0701
Repeal/*				
<u>Stock in Other Depository Institutions</u>	04	NCAC	16E	.0702
Repeal/*				

The rules in Subchapter 16F concern service corporations and finance subsidiaries.

<u>Permitted Activities</u>	04	NCAC	16F	.0101
Amend/*				
<u>Debt Limitation for Wholly-Owned Service Corporations</u>	04	NCAC	16F	.0103
Amend/*				
<u>Amendments to Articles of Incorporation or Bylaws</u>	04	NCAC	16F	.0105
Amend/*				

RULES REVIEW COMMISSION

<u>Establishment of Finance of Subsidiaries</u> Repeal/*	04	NCAC	16F	.0106
<u>Board Action Required</u> Repeal/*	04	NCAC	16F	.0107
<u>Finance Subsidiary Transactions with Parent</u> Repeal/*	04	NCAC	16F	.0108
<u>Issuance of Securities by Finance Subsidiaries</u> Repeal/*	04	NCAC	16F	.0109
<u>Transfer of Proceeds</u> Repeal/*	04	NCAC	16F	.0110
<u>Holding Company Subsidiaries and Financial Subsidiaries</u> Repeal/*	04	NCAC	16F	.0111
<u>Notification to the Commissioner of Banks</u> Repeal/*	04	NCAC	16F	.0112
<u>Examination of Financial Subsidiaries</u> Repeal/*	04	NCAC	16F	.0113

The rules in Subchapter 16G concern mutual to stock conversions including scope (.0100); general principles for conversion (.0300); notice of filing, public statements, confidentiality (.0400); solicitation of proxies, proxy statement (.0500); vote by members (.0600); pricing and sale of securities (.0700); procedural requirements (.0800); acquisitions of securities of converted associations (.0900); and conversion, mergers, acquisitions (.1200);

<u>Definitions</u> Amend/*	04	NCAC	16G	.0103
<u>General Requirements</u> Amend/*	04	NCAC	16G	.0104
<u>Application for Conversion</u> Repeal/*	04	NCAC	16G	.0105
<u>Confidential Information</u> Amend/*	04	NCAC	16G	.0106
<u>Required Provisions in Plan of Conversion</u> Amend/*	04	NCAC	16G	.0311
<u>Optional Provisions in Plan of Conversion</u> Amend/*	04	NCAC	16G	.0312
<u>Record Dates for Qualifying Deposits</u> Amend/*	04	NCAC	16G	.0313
<u>Liquidation Account</u> Repeal/*	04	NCAC	16G	.0314
<u>Manipulative and Deceptive Devices</u> Amend/*	04	NCAC	16G	.0315
<u>Merger of Converted Savings Banks</u> Repeal/*	04	NCAC	16G	.0316
<u>Information Prior to Approval of Plan of Conversion</u> Repeal/*	04	NCAC	16G	.0404
<u>Notice of Filing</u> Amend/*	04	NCAC	16G	.0405
<u>Solicitations to Which Rules Apply</u> Amend/*	04	NCAC	16G	.0509
<u>Use of Proxy Soliciting Material to be Authorized</u> Amend/*	04	NCAC	16G	.0510
<u>Information to be Furnished to Members</u> Amend/*	04	NCAC	16G	.0511

RULES REVIEW COMMISSION

<u>Requirements as to Proxy</u> Amend/*	04	NCAC	16G	.0512
<u>Material to be Filed</u> Amend/*	04	NCAC	16G	.0513
<u>Mailing Communication for Members</u> Repeal/*	04	NCAC	16G	.0514
<u>False or Misleading Statements</u> Amend/*	04	NCAC	16G	.0515
<u>Prohibition of Certain Solicitations</u> Amend/*	04	NCAC	16G	.0516
<u>Vote at Members Meeting</u> Repeal/*	04	NCAC	16G	.0606
<u>Notice to Members</u> Repeal/*	04	NCAC	16G	.0607
<u>Elective Notice to Non-Voting Account Holders</u> Repeal/*	04	NCAC	16G	.0608
<u>General</u> Amend/*	04	NCAC	16G	.0712
<u>Distribution of Offering Materials</u> Amend/*	04	NCAC	16G	.0713
<u>Estimated Price Information: Proxy Statements</u> Repeal/*	04	NCAC	16G	.0714
<u>Prohibited Representations</u> Amend/*	04	NCAC	16G	.0715
<u>Underwriting Expenses</u> Repeal/*	04	NCAC	16G	.0716
<u>Pricing Materials</u> Amend/*	04	NCAC	16G	.0717
<u>Order Forms for Purchasing of Capital Stock</u> Amend/*	04	NCAC	16G	.0718
<u>Withdrawal from Certificate Accounts</u> Repeal/*	04	NCAC	16G	.0719
<u>Period for Completion of Sale</u> Amend/*	04	NCAC	16G	.0720
<u>Extension of Time to Complete Offerings</u> Amend/*	04	NCAC	16G	.0722
<u>Improperly Executed or Materially Incomplete Filings</u> Repeal/*	04	NCAC	16G	.0822
<u>Additional Filing Requirements</u> Amend/*	04	NCAC	16G	.0823
<u>Application Signatures</u> Repeal/*	04	NCAC	16G	.0824
<u>Requirements as to Paper and Printing</u> Repeal/*	04	NCAC	16G	.0825
<u>Method of Preparation</u> Repeal/*	04	NCAC	16G	.0826
<u>Information Unknown or not Reasonably Available</u> Repeal/*	04	NCAC	16G	.0827
<u>Incorporation of Certain Information by Reference</u> Repeal/*	04	NCAC	16G	.0828
<u>Presentation of Information</u> Repeal/*	04	NCAC	16G	.0829

RULES REVIEW COMMISSION

<u>Consent of Experts</u> Repeal/*	04	NCAC	16G	.0830
<u>Consent of Persons About to Become Directors</u> Repeal/*	04	NCAC	16G	.0831
<u>Amendments</u> Repeal/*	04	NCAC	16G	.0832
<u>Post-Conversion Reports</u> Repeal/*	04	NCAC	16G	.0833
<u>Definitions</u> Repeal/*	04	NCAC	16G	.0908
<u>Prohibited Transfers</u> Repeal/*	04	NCAC	16G	.0909
<u>Prohibition of Offers of Certain Acquisitions</u> Repeal/*	04	NCAC	16G	.0910
<u>Exceptions</u> Repeal/*	04	NCAC	16G	.0911
<u>Criteria for Denial</u> Repeal/*	04	NCAC	16G	.0912
<u>Conversion in Connection with Acquisition</u> Repeal/*	04	NCAC	16G	.1203
<u>Conversion in Connection with Merger</u> Repeal/*	04	NCAC	16G	.1204

The rules in Subchapter 16H concern supervisory actions.

<u>Definitions</u> Amend/*	04	NCAC	16H	.0101
<u>Notice to Savings Institution</u> Amend/*	04	NCAC	16H	.0103
<u>Adoption of Plan</u> Amend/*	04	NCAC	16H	.0104
<u>Approved by Commissioner of Banks</u> Amend/*	04	NCAC	16H	.0105
<u>Short Form Mutual Stock Conversion</u> Repeal/*	04	NCAC	16H	.0106
<u>Liquidation Account</u> Repeal/*	04	NCAC	16H	.0107
<u>Waiver</u> Amend/*	04	NCAC	16H	.0108

The rules in Subchapter 16I concern acquisition of control including general rules (.0700); acquisitions (.0800); reorganizing stock association into holding company (.0900); acquisitions of stock associations (.1000); registration, supervision, reports, filings, books and records (.1100); conversion of mutual association into holding company (.1200); and holding company acquisitions (.1300).

<u>Definitions and Other Terms</u> Amend/*	04	NCAC	16I	.0702
<u>Standards for Approval of Acquisition: Duties and Conduct</u> Amend/*	04	NCAC	16I	.0703
<u>Investment Activities of Holding Companies</u> Repeal/*	04	NCAC	16I	.0704
<u>Prior Written Approval Required</u> Amend/*	04	NCAC	16I	.0801

RULES REVIEW COMMISSION

<u>Application Fees: Filings</u> Amend/*	04	NCAC	16I	.0802
<u>Confidential Information</u> Amend/*	04	NCAC	16I	.0803
<u>Required Application</u> Amend/*	04	NCAC	16I	.0901
<u>Acquisition Procedure</u> Amend/*	04	NCAC	16I	.0902
<u>Required Application</u> Amend/*	04	NCAC	16I	.1001
<u>Foreign Applicants</u> Amend/*	04	NCAC	16I	.1002
<u>Acquisition Procedure</u> Amend/*	04	NCAC	16I	.1003
<u>Registration</u> Repeal/*	04	NCAC	16I	.1101
<u>Supervision</u> Amend/*	04	NCAC	16I	.1102
<u>Annual Reports</u> Amend/*	04	NCAC	16I	.1103
<u>Filings and Approval: Amendments to Articles and Bylaws</u> Amend/*	04	NCAC	16I	.1104
<u>Reports</u> Amend/*	04	NCAC	16I	.1105
<u>Books and Records</u> Repeal/*	04	NCAC	16I	.1106
<u>Required Acquisition Application</u> Repeal/*	04	NCAC	16I	.1201
<u>Conversion Procedure</u> Repeal/*	04	NCAC	16I	.1202
<u>Plan of Conversion Requirements</u> Repeal/*	04	NCAC	16I	.1203
<u>Required Application</u> Amend/*	04	NCAC	16I	.1301
<u>Acquisition Procedure</u> Amend/*	04	NCAC	16I	.1302

The rules in Subchapter 16J concern the merger of state and federal associations.

<u>Merger of a State Institution into a Federal Institution</u> Repeal/*	04	NCAC	16J	.0101
<u>Merger of a Federal Institution into a State Institution</u> Repeal/*	04	NCAC	16J	.0102
<u>Waiver</u> Repeal/*	04	NCAC	16J	.0103

The rules in Subchapter 16K concern trust powers.

<u>Definitions</u> Amend/*	04	NCAC	16K	.0101
<u>Applications</u> Amend/*	04	NCAC	16K	.0102
<u>Consolidation or Merger of Two or More Savings Institutions</u> Amend/*	04	NCAC	16K	.0103

RULES REVIEW COMMISSION

<u>Administration of Trust Powers</u> Amend/*	04	NCAC	16K	.0104
<u>Books and Accounts</u> Amend/*	04	NCAC	16K	.0105
<u>Audit and Trust Department</u> Amend/*	04	NCAC	16K	.0106
<u>Funds Awaiting Investment or Distribution</u> Amend/*	04	NCAC	16K	.0107
<u>Investment of Funds Held as Fiduciary</u> Amend/*	04	NCAC	16K	.0108
<u>Self-Dealing</u> Amend/*	04	NCAC	16K	.0109
<u>Custody of Investments</u> Amend/*	04	NCAC	16K	.0110
<u>Compensation of Savings Institutions</u> Amend/*	04	NCAC	16K	.0111
<u>Collective Investment</u> Amend/*	04	NCAC	16K	.0112
<u>Surrender of Trust Powers</u> Repeal/*	04	NCAC	16K	.0113
<u>Eff. of Appt.: Conservator/Receiver: Voluntary Dissolution</u> Repeal/*	04	NCAC	16K	.0114
<u>Revocation of Trust Powers</u> Repeal/*	04	NCAC	16K	.0115
<u>Applicability of General Laws Regarding Trust Operations</u> Repeal/*	04	NCAC	16K	.0116
<u>Reports and Fees</u> Amend/*	04	NCAC	16K	.0117

The rules in Subchapter 16L concern voluntary dissolution.

<u>Plan of Liquidation</u> Repeal/*	04	NCAC	16L	.0101
<u>Disposition of Assets</u> Amend/*	04	NCAC	16L	.0102
<u>Rescission and Cancellation of Dissolution</u> Amend/*	04	NCAC	16L	.0103
<u>Waiver</u> Amend/*	04	NCAC	16L	.0104

INSURANCE, COMMISSIONER OF

The rules in Chapter 6 are from the Agent Services Division.

The rules in Subchapter 6A cover general provisions (.0100); forms (.0200); examinations (.0300); licensing (.0400); license renewals and cancellations (.0500); license denials (.0600); prelicensing education (.0700); continuing education (.0800); and public adjusters (.0900).

<u>Licensee Requirements</u> Amend/*	11	NCAC	06A	.0802
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SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

Rules in Subchapter 10B are from the N. C. Sheriffs' Education and Training Standards Commission. These rules govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); and firearms in-service training and re-qualification (.2100).

<u>Minimum Standards for Justice Officers</u> Amend/*	12	NCAC	10B	.0301
<u>Medical Examination</u> Amend/*	12	NCAC	10B	.0304
<u>Admission of Trainees</u> Amend/*	12	NCAC	10B	.0713
<u>Minimum Training Requirements</u> Amend/*	12	NCAC	10B	.2005

PRIVATE PROTECTIVE SERVICES BOARD

The rules in Chapter 16 are from the Private Protective Services Board and cover organization and general provisions (.0100); licenses and trainee permits (.0200); security guard patrol and guard dog service (.0300); private investigator: electronic countermeasures (.0400); polygraph (.0500); psychological stress evaluator (PSE) (.0600); unarmed security guard registration (.0700); armed security guard firearm registration permit (.0800); trainer certificate (.0900); recovery fund (.1000); training and supervision for private investigator associates (.1100); continuing education (.1300); and armed armored car service guards firearm registration permit (.1400).

<u>Location</u> Amend/*	14B	NCAC	16	.0102
<u>Application for Licenses and Trainee Permits</u> Amend/*	14B	NCAC	16	.0201
<u>Renewal or Re-issue of Licenses and Trainee Permit</u> Amend/*	14B	NCAC	16	.0203
<u>Application for Unarmed Security Guard Registration</u> Amend/*	14B	NCAC	16	.0701
<u>Renewal or Reissue of Unarmed Security Guard Registration</u> Amend/*	14B	NCAC	16	.0706
<u>Application/Armed Security Guard Firearm Registration Permit</u> Amend/*	14B	NCAC	16	.0801
<u>Renewal of Armed Security Guard Firearm Registration Permit</u> Amend/*	14B	NCAC	16	.0806
<u>Application for Firearms Trainer Certificate</u> Amend/*	14B	NCAC	16	.0902
<u>Renewal of a Firearms Trainer Certificate</u> Amend/*	14B	NCAC	16	.0904
<u>Application for Unarmed Armored Car Service Guard Registr...</u> Amend/*	14B	NCAC	16	.1301
<u>Renewal or Reissue of Unarmed Car Service Guard Registration</u> Amend/*	14B	NCAC	16	.1306
<u>Application/Armed Armored Car Service Guard Firearm Regis...</u> Amend/*	14B	NCAC	16	.1401
<u>Renewal of Armed Armored Car Service Guard Firearm Regist...</u> Amend/*	14B	NCAC	16	.1406

WILDLIFE RESOURCES COMMISSION

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

<u>Beaufort County</u> Amend/*	15A	NCAC	10F	.0303
<u>Burke County</u> Amend/*	15A	NCAC	10F	.0323
<u>McDowell County</u> Amend/*	15A	NCAC	10F	.0339

REVENUE, DEPARTMENT OF

The rules in Chapter 12 concern motor fuel tax.

The rules in Subchapter 12A concern the highway fuel use tax including operations (.0100); North Carolina fuel purchases (.0200); credits and refunds (.0300); tax returns and miles per gallon factors (.0400); and registration cards and identification markers (.0500).

<u>Receipt or Invoice Requirements to Obtain Credit for Reta...</u> Readopt with Changes/*	17	NCAC	12A	.0201
<u>Withdrawals from Bulk Storage</u> Readopt with Changes/*	17	NCAC	12A	.0202
<u>Motor Carrier Bond Requirements</u> Readopt with Changes/*	17	NCAC	12A	.0303
<u>Dealer: Manufacturer: Driveway: Transporter</u> Readopt with Changes/*	17	NCAC	12A	.0503

The rules in Subchapter 12B concern gasoline, diesel, and blends including license and bond (.0100); tax and liability (.0200); payment and reporting (.0300); refunds (.0400); and enforcement and administration (.0500).

<u>Motor Fuel Bond Requirements</u> Readopt with Changes/*	17	NCAC	12B	.0106
<u>Irrevocable Letter of Credit</u> Readopt with Changes/*	17	NCAC	12B	.0107
<u>Claim for Refund for Sales to Exempt Entities</u> Readopt with Changes/*	17	NCAC	12B	.0402
<u>Off-Highway Claim for Refund</u> Readopt with Changes/*	17	NCAC	12B	.0403
<u>Record Requirements for Off-Highway Refund Claims</u> Readopt with Changes/*	17	NCAC	12B	.0404
<u>Removal of License Plate</u> Readopt with Changes/*	17	NCAC	12B	.0410
<u>Proportional Refunds</u> Readopt with Changes/*	17	NCAC	12B	.0412
<u>Nonprofit Organization Claim for Refunds</u> Readopt with Changes/*	17	NCAC	12B	.0413
<u>Eligibility for Refunds</u> Repeal/*	17	NCAC	12B	.0414
<u>Record-Keeping Requirements of Bulk End-Users, Retailers,...</u> Readopt with Changes/*	17	NCAC	12B	.0502

The rules in Subchapter 12C concern alternative fuel including tax and liability (.0200); and payment and reporting (.0300).

<u>Fuel from Cargo Supply Tank</u> Readopt with Changes/*	17	NCAC	12C	.0301
<u>Odometer Readings</u> Readopt with Changes/*	17	NCAC	12C	.0302
<u>Alternative Fuels for Nonhighway Use Only</u> Readopt with Changes/*	17	NCAC	12C	.0304

The rules in Subchapter 12D concern the bond requirements for the kerosene inspection tax.

<u>Amount of Bond Required</u> Readopt with Changes/*	17	NCAC	12D	.0102
<u>Acceptance of Bonds and Letters of Credit</u> Readopt with Changes/*	17	NCAC	12D	.0103

LOCAL GOVERNMENT COMMISSION

The rules in Chapter 3 concern the Local Government Commission including general provisions (.0100); approval of debt obligations (.0200); sale and delivery of bonds and notes (.0300); accounting and internal controls (.0400); audit contracts (.0500); school budgeting and accounting (.0600); mutual fund for local government investment (.0700); systems of registration (.0800) other requests for approval (.0900); and evidentiary hearing on refunding bonds (.1000).

<u>Exemption from Preaudit Certificate Requirement for Elect...</u> Adopt/*	20	NCAC	03	.0409
<u>Exemption from Disbursement Certificate Requirement for E...</u> Adopt/*	20	NCAC	03	.0410

CAPITAL FACILITIES FINANCE AGENCY

The rules in Chapter 9 concern the Capital Facilities Finance Agency including general provisions (.0100); rule-making (.0200); contested cases (.0300); approval of application (.0400); review criteria (.0500); and fees (.0600).

<u>Organization And Functions</u> Amend/*	20	NCAC	09	.0101
<u>Definitions</u> Amend/*	20	NCAC	09	.0102

ARCHITECTURE, BOARD OF

The rules in Chapter 2 are from the Board of Architecture and include general provisions (.0100); practice of architecture (.0200); examination procedures (.0300); rules, petitions, and hearings (.0400); declaratory rulings (.0500); administrative hearings: procedures (.0600); administrative hearings: decisions and related rights (.0700); judicial review (.0800); and continuing education (.0900).

<u>Fees</u> Amend/*	21	NCAC	02	.0108
<u>Requirement for and Use of Professional Seal</u> Amend/*	21	NCAC	02	.0206
<u>Unprofessional Conduct</u> Amend/*	21	NCAC	02	.0209
<u>Individual Licenses</u> Amend/*	21	NCAC	02	.0213
<u>Architect Emeritus</u> Amend/*	21	NCAC	02	.0217
<u>Application for Registration by Exam</u> Repeal/*	21	NCAC	02	.0301

Examination 21 NCAC 02 .0302
Amend/*

DENTAL EXAMINERS, BOARD OF

The rules in Subchapter 16Y concern permitting intern dentists.

Direction and Supervision 21 NCAC 16Y .0104
Amend/*

CONTESTED CASE DECISIONS

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

*Senior Administrative Law Judge
FRED G. MORRISON JR.*

ADMINISTRATIVE LAW JUDGES

Melissa Owens Lassiter
Don Overby
J. Randall May
David Sutton

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

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<u>PUBLISHED</u>			
16	ABC	08408	7/3/2017	NC Alcoholic Beverage Control Commission	v.	Summit Hospitality Group Limited T/A Residence Inn by Marriott Chapel Hill	Overby
16	ABC	10872	7/27/2017	NC Alcoholic Beverage Control Commission	v.	Azan Inc T/A Mulligan's Raw Bar and Grill	Overby
17	CPS	02598	7/19/2017	Anastasios Kanavos	v.	Crime Victims Compensation Commission	Sutton
16	DHR	07886	7/28/2017	Ernest Floyd Foster	v.	Environmental Health Department	Overby
16	DHR	11753	7/5/2017	Alternative Behavioral Solutions Inc	v.	Sandhills Center for Mental Health Development Disabilities and Substance Abuse Services	May
17	DHR	00011	7/13/2017	Roxboro Family Dentistry	v.	NC Department of Health and Human Services Division of Medical Assistance	Lassiter
17	DOJ	03190	7/6/2017	Sylvester Demetrius Thomas	v.	NC Private Protective Services Board	Lassiter
17	DOJ	03356	7/27/2017	Donald Keith Grantham	v.	NC Private Protective Services Board	Overby
17	DOJ	03814	7/26/2017	Myron Earl McClain	v.	NC Private Protective Services Board	Overby
16	INS	10354	7/25/2017	NC Department of Insurance Agent Services Division	v.	Gregory S Price and Larry D Benton Jr.	Malherbe
17	INS	00369	7/13/2017	Janet P Dengler	v.	North Carolina State Health Plan	May
17	INS	00837	7/13/2017	Kristina Lynn Earwood	v.	North Carolina State Health Plan for Teachers and State Employees	May

CONTESTED CASE DECISIONS

17	INS	01600	7/25/2017	Sanjana Sharma	v.	North Carolina State Health Plan	Bawtinhimer
16	OSP	00297	7/12/2017	Gloria R Watlington	v.	Department of Social Services Rockingham County	May
16	OSP	12191	7/3/2017	William G Antico	v.	North Carolina Department of Public Safety	Elkins
17	SOS	02134	7/28/2017	David L Boyd	v.	NC Department of the Secretary of State Notary	Lassiter
				UNPUBLISHED			
17	ABC	02669	7/7/2017	NC Alcoholic Beverage Control Commission	v.	Christopher Hartley T/A Rookies	Lassiter
17	CPS	00282	7/26/2017	Brianna Michaels RN	v.	NC Crime Victims Compensation Commission	May
16	CSE	10388	7/6/2017	Rodney T. Trotman	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	CSE	10430	7/3/2017	Jevon DeBastien	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
16	CSE	10557	7/6/2017	Keith J. Lewis	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	CSE	10690	7/28/2017	Nickolas N. Case	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	CSE	10893	7/3/2017	Darold D Turner	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
16	CSE	11134	7/7/2017	Christopher Scott	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
16	CSE	11313	7/20/2017	Alejandro Nazar	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
16	CSE	11322	7/5/2017	Derwin L Young	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
16	CSE	11323	7/5/2017	Derwin L Young	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
17	CSE	03242	7/24/2017	Jason Angell	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
17	CSE	03558	7/24/2017	Gerald Greene	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
17	DHR	03021	7/3/2017	Michelle Primosch	v.	North Carolina Nurses Aide I Registry, Medication Aide Registry, Health care registry	Malherbe

CONTESTED CASE DECISIONS

17	DOJ	00148	7/21/2017	Walter E Wheeler II	v.	NC Criminal Justice Education and Training Standards Commission	Elkins
17	DOJ	01101	7/21/2017	Cynthia Annette Clark	v.	NC Private Protective Services Board	Overby
17	DOJ	02397	7/25/2017	Curtis D Nealey	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
17	DOJ	02733	7/11/2017	Melindie R Lewis	v.	NC Criminal Justice Education and Training Standards Commission	Overby
17	DOT	02182	7/10/2017	Kelly Denise Killian	v.	Paul Veling et al The State of North Carolina NCDOT Holly Spring Police Department	Bawtinheimer
17	DOT	03353	7/6/2017	Sharon Richardson	v.	State of North Carolina Department of Transportation	Malherbe
17	EHR	00345	7/13/2017	Blackrock Engineers Inc a Licensed North Carolina Professional Corporation	v.	NC Department of Environmental Quality	Lassiter
17	INS	03237	7/6/2017	Robert DeRobertis	v.	Iredell Statesville Schools/Benefits North Carolina State Health Plan	Sutton
17	INS	03366	7/24/2017	Grace Millsap	v.	North Carolina State Health Plan	Malherbe
17	INS	03765	7/24/2017	Kimberly Guffey	v.	North Carolina State Health Plan for Teachers and State Employees 3200 Atlantic Avenue Raleigh, NC 27604 919-814-4400	Malherbe
16	OSP	08033	7/3/2017	Deborah Hamilton	v.	Lee County Department of Social Services	Ward
17	OSP	03161	7/3/2017	Joseph H. Vincoli	v.	NC Department of Public Safety	Ward