

NORTH CAROLINA REGISTER

VOLUME 32 • ISSUE 14 • Pages 1333 – 1454

January 16, 2018

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2018 – December 2018

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE				TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 th day from publication in the Register
32:13	01/02/18	12/06/17	01/17/18	03/05/18	03/20/18	04/19/18	05/01/18	05/2018	09/29/18
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32:18	03/15/18	02/22/18	03/30/18	05/14/18	05/21/18	06/21/18	07/01/18	01/2019	12/10/18
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32:20	04/16/18	03/23/18	05/01/18	06/15/18	06/20/18	07/19/18	08/01/18	01/2019	01/11/19
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33:05	09/04/18	08/13/18	09/19/18	11/05/18	11/20/18	12/20/18	01/01/19	01/2019	06/01/19
33:06	09/17/18	08/24/18	10/02/18	11/16/18	11/20/18	12/20/18	01/01/19	01/2019	06/14/19
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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.

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 04 – DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Industrial Commission intends to amend the rule cited as 04 NCAC 10A .0107.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ic.nc.gov/proposed10A0107Notice-011618.pdf>

Proposed Effective Date: May 1, 2018

Public Hearing:

Date: March 2, 2018

Time: 10:30 a.m.

Location: Room 240, 2nd Floor, Department of Insurance, Albemarle Building, 325 North Salisbury Street, Raleigh, NC 27603

Reason for Proposed Action: In the Appropriations Act of 2017, Session Law 2017-57, Section 15.17, the General Assembly amended provisions of NC General Statute § 97-86 pertaining to the method of sending notice of Commission awards. Previously, the statute allowed for notice to be sent by registered or certified mail. Currently, the statute, as amended, specifies that notice shall be sent by any class of U.S. mail that is fully prepaid or electronic mail. Therefore, the Commission is engaging in permanent rulemaking to establish a time certain for the sending of notices pursuant to NC General Statute § 97-86.

Comments may be submitted to: Kendall Bourdon, 1233 Mail Service Center, Raleigh, NC 27699-1233; phone (919) 807-2644; email Kendall.Bourdon@ic.nc.gov

Comment period ends: March 19, 2018

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 - INDUSTRIAL COMMISSION

SUBCHAPTER 10A - WORKERS' COMPENSATION RULES

SECTION .0100 - ADMINISTRATION

04 NCAC 10A .0107 COMPUTATION OF TIME AND NOTICE BY THE COMMISSION

(a) Except as otherwise provided by statute or rule, in computing any period of time prescribed or allowed by the Commission Rules, by order of the Commission, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, a Sunday, or a holiday established by the State ~~Personnel~~ Human Resources Commission, in which event the period runs until the end of the next day that is not a Saturday, a Sunday or a holiday established by the State ~~Personnel~~ Human Resources Commission. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation. Whenever a party has the right to do some act or take some proceedings within a prescribed period after the service of any ~~document~~, document by mail, three days shall be added to the prescribed period.

(b) If service is provided by electronic mail, notice pursuant to G.S. 97-86 is complete one hour after it is sent, provided that:

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

(c) If service is provided by U.S. Mail, notice pursuant to G.S. 97-86 is complete upon the Commission's placing the item to be served, enclosed in a wrapper addressed to the party to be served, in the custody of the Mail Service Center or an official depository of the United States Postal Service.

Authority G.S. 97-80; 97-81; 97-84; 97-86; S.L. 2017-57; s. 15.17.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Industrial Commission intends to adopt the rules cited as 04 NCAC 10M .0101-.0103, .0201-.0203, .0301, .0401, and .0501.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ic.nc.gov/proposed10M.Notice-011618.pdf>

Proposed Effective Date: May 1, 2018

Public Hearing:

Date: March 2, 2018

Time: 2:30 p.m.

Location: Room 240, 2nd Floor, Department of Insurance, Albemarle Building, 325 North Salisbury Street, Raleigh, NC 27603

Reason for Proposed Action: In Session law 2017-203, Section 4.(a), the General Assembly instructed the Industrial Commission to adopt rules and guidelines, consistent with NC General Statute § 97-25.4, for the utilization of opioids, related prescriptions, and pain management treatment. The proposed rules for the utilization of opioids and pain management in workers' compensation claims are proactive measures aimed at curtailing opioid misuse and addiction in workers' compensation claims. The rules proposed for adoption are promulgated to ensure that injured workers are provided the services and care intended by the Workers' Compensation Act and that medical costs are adequately contained. Additionally, the proposed rules are intended to facilitate the timely and effective delivery of appropriate medical treatment for pain management in workers' compensation claims.

Further, in Session Law 2017-203, Section 4.(b), the General Assembly exempted the Industrial Commission from the fiscal note requirement of NC General Statute § 150B-21.4 in developing and implementing the rules and guidelines for opioids, related prescriptions, and pain management treatment. Therefore, in accordance with this waiver, no fiscal note is required for these rules.

Comments may be submitted to: Kendall Bourdon, 1233 Mail Service Center, Raleigh, NC 27699-1233; phone (919) 807-2644; email Kendall.Bourdon@ic.nc.gov

Comment period ends: March 19, 2018

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 (Session Law 2017-203, Section 4.(b) contains a waiver.)

CHAPTER 10 - INDUSTRIAL COMMISSION

SUBCHAPTER 10M – RULES FOR THE UTILIZATION OF OPIOIDS, RELATED PRESCRIPTIONS, AND PAIN MANAGEMENT TREATMENT IN WORKERS' COMPENSATION CLAIMS

SECTION .0100 – GENERAL PROVISIONS

04 NCAC 10M .0101 PURPOSE AND APPLICABILITY OF THE RULES

(a) The rules in this Subchapter shall apply to all claims arising under the provisions of the Workers' Compensation Act. However, Section .0200 of this Subchapter shall not apply to claims in which the employee received treatment with a targeted controlled substance for more than 12 consecutive weeks immediately preceding the effective date of the rules.

(b) The rules in this Subchapter apply to the prescription of targeted controlled substances as defined in Rule .0102 of this Section and the prescription of other modalities of pain management treatment for the outpatient treatment of non-cancer pain in claims in which the employer is providing medical compensation pursuant to the Workers' Compensation Act. The rules in this Subchapter do not apply to prescriptions for medications to be administered in a health care setting.

(c) The rules in this Subchapter are promulgated to ensure that employees are provided the services and care intended by the Workers' Compensation Act and that medical costs are adequately contained. The Rules are intended to facilitate the timely and effective delivery of appropriate medical treatment for pain management in workers' compensation claims. The Rules address the utilization of opioids, related prescriptions, and pain management treatment in workers' compensation claims. The Rules do not constitute medical advice or a standard of medical care. Disputes regarding the treatment addressed by these Rules shall be governed by G.S. 97-25 and Rule 04 NCAC 10A .0609A.

Authority G.S. 97-25; 97-25.4; 97-80(a); S.L. 2017-203, s. 4.

04 NCAC 10M .0102 DEFINITIONS

As used in this Subchapter:

- (1) "Acute phase" means 12 weeks of treatment for pain following an injury by accident.

- occupational disease, surgery for an injury by accident or occupational disease, or subsequent aggravation of an injury by accident or occupational disease. There may be more than one acute phase during treatment for an injury or occupational disease.
- (2) "Chronic phase" means continued treatment for pain immediately following a 12-week period of treatment for pain using a targeted controlled substance.
- (3) "Confirmatory urine drug test" means a definitive urine drug test that verifies the results of a presumptive urine drug test. A confirmatory urine drug test identifies individual drugs and drug metabolites. Health care providers shall use a confirmatory drug test for the lowest number of drug classes necessary based on the results of the presumptive urine drug test, not to exceed 21 drug classes.
- (4) "CSRS" means the Controlled Substances Reporting System as referenced in the North Carolina Controlled Substances Reporting System Act, Article 5E of Chapter 90 of the North Carolina General Statutes.
- (5) "Long-acting opioid" or "extended-release opioid" means any targeted controlled substance that is formulated to release the drug gradually into the bloodstream or to have a long half-life for prolonged activity with an analgesic effect of 8-72 hours or longer.
- (6) "Lowest effective dosage" means the lowest dose necessary to achieve the clinical goal.
- (7) "Morphine equivalent dose" means conversion of various opioids to an equivalent morphine dose by using the most current conversion guidelines provided by the Centers for Disease Control and Prevention ("CDC"). The CDC Opioid Prescribing Guideline Mobile App and the CDC's guidelines for Calculating Total Daily Dose of Opioids for Safer Dosage are hereby incorporated by reference, including any subsequent amendments or editions. These materials are available online at no additional cost at https://www.cdc.gov/drugoverdose/pdf/calculating_total_daily_dose-a.pdf and https://www.cdc.gov/drugoverdose/pdf/App_Opioid_Prescribing_Guideline-a.pdf.
- (8) "Opioid antagonist" means the term as defined in G.S. 90-12.7(a).
- (9) "Pain" means pain resulting from an injury by accident or occupational disease.
- (10) "Presumptive urine drug test" means an initial urine drug test that identifies negative specimens and presumptive positive specimens, and is interpreted through visual examination. Examples include dipstick tests and drug test cups. A health care provider who is providing pain management treatment in the chronic

phase to an employee may administer a presumptive urine drug test that is qualitative and interpreted or analyzed with instrumental or chemical assistance if the health care provider believes, in his or her medical opinion, that a more sensitive presumptive urine drug test is appropriate and is likely to reduce the need for a confirmatory urine drug test.

(11) "Short-acting opioid" means any targeted controlled substance with a quick onset of action and short duration of analgesic activity that is formulated for dosing at intervals of two to six hours.

(12) "Targeted controlled substance" means any controlled substance included in G.S. 90-90(1) or (2) or G.S. 90-91(d).

Authority G.S. 90-12.7(a); 90-90; 90-91; 97-25.4; 97-80(a); S.L. 2017-203, s. 4.

04 NCAC 10M .0103 WAIVER OF RULES

In the interests of justice or to promote judicial economy, the Commission may, except as otherwise provided by the rules in this Subchapter, waive or vary the requirements or provisions of any of the rules in this Subchapter in a case pending before the Commission upon written application of a party or upon its own initiative. Factors the Commission shall use in determining whether to grant the waiver are:

- (1) the necessity of a waiver;
- (2) the party's responsibility for the conditions creating the need for a waiver;
- (3) the party's prior requests for a waiver;
- (4) the precedential value of such a waiver;
- (5) notice to and opposition by the opposing parties; and
- (6) the harm to the party if the waiver is not granted.

Authority G.S. 97-25; 97-25.4; 97-80(a); S.L. 2017-203, s. 4.

SECTION .0200 – UTILIZATION RULES FOR OPIOID AND OTHER PHARMACOLOGICAL PAIN MANAGEMENT TREATMENT

04 NCAC 10M .0201 FIRST PRESCRIPTION OF MEDICATION FOR PAIN IN AN ACUTE PHASE

(a) This Rule applies to the first prescription of any medication to an employee for pain in an acute phase.

(b) Before prescribing a targeted controlled substance, a health care provider shall document his or her medical opinion in the medical record that non-pharmacological and non-opioid therapies are insufficient to treat the employee's pain.

(c) A health care provider shall not prescribe more than one targeted controlled substance at the time of the first prescription. A health care provider shall not provide at the time of the first prescription any additional prescription for a targeted controlled substance to be dispensed at a later time.

(d) A health care provider shall prescribe the lowest number of days' supply of a targeted controlled substance necessary in his or

her medical opinion to treat an employee's pain, not to exceed a five-day supply. However, the first prescription of any targeted controlled substance for post-operative pain immediately following a surgical procedure may exceed five days but shall not exceed a seven-day supply.

(e) A health care provider shall prescribe the lowest effective dosage of a targeted controlled substance, not to exceed a 50 mg morphine equivalent dose per day, using only short-acting opioids. However, a health care provider may prescribe more than a 50 mg morphine equivalent dose per day for post-operative pain immediately following a surgical procedure if the employee was being prescribed more than a 50 mg morphine equivalent dose per day for the injury or occupational disease immediately prior to surgery.

(f) A health care provider shall not prescribe transcutaneous, transdermal, transmucosal, or buccal opioid preparations without documentation in the medical record that oral opioid dosing is medically contraindicated for the employee.

(g) A health care provider shall not prescribe fentanyl for pain in an acute phase.

(h) A health care provider shall not prescribe benzodiazepines for pain or as muscle relaxers in an acute phase.

(i) A health care provider shall not prescribe carisoprodol and a targeted controlled substance in an acute phase.

(j) If an employee is taking benzodiazepines or carisoprodol prescribed by another health care provider, the health care provider shall not prescribe a targeted controlled substance to the employee without advising the employee of the potential risks of combining a targeted controlled substance and benzodiazepines or carisoprodol. The health care provider shall also communicate with the health care provider prescribing the benzodiazepines or carisoprodol to inform that health care provider of the prescription of a targeted controlled substance.

(k) A health care provider shall review the information in the CSRS pertaining to the employee for the 12-month period preceding the first prescription. The health care provider shall document in the medical record the review and any potential contraindications to prescribing a targeted controlled substance found in the CSRS.

Authority G.S. 90-106(a3); 90-113.74C(a); 97-25; 97-25.4; 97-80(a); S.L. 2017-203, s. 4.

04 NCAC 10M .0202 PRESCRIPTION OF MEDICATION FOR PAIN IN AN ACUTE PHASE FOLLOWING THE FIRST PRESCRIPTION

(a) This Rule applies to prescriptions for medication to an employee for pain during an acute phase that are written after a first prescription as described in Rule .0201 of this Section.

(b) Before prescribing a targeted controlled substance, a health care provider shall document his or her medical opinion in the medical record that non-pharmacological and non-opioid therapies are insufficient to treat the employee's pain.

(c) A health care provider shall not prescribe more than one targeted controlled substance at a time in an acute phase.

(d) A health care provider shall prescribe the lowest number of days' supply of a targeted controlled substance necessary in his or her medical opinion to treat an employee's pain.

(e) A health care provider shall prescribe the lowest effective dosage of a targeted controlled substance, not to exceed 50 mg morphine equivalent dose per day, using only short-acting opioids. However, the health care provider may prescribe a morphine equivalent dose higher than 50 mg per day, but not higher than 90 mg per day, after documenting the medical justification for the prescription, including a comparison of the expected benefits to the employee versus any potential risks of increasing the employee's dosage. If the health care provider prescribes a morphine equivalent dose higher than 50 mg per day in an acute phase, the health care provider shall review at all subsequent evaluations whether the employee experienced the expected benefits and consider whether to continue the higher dosage and document the medical record accordingly.

(f) A health care provider shall not prescribe transcutaneous, transdermal, transmucosal, or buccal opioid preparations without documentation in the medical record that oral opioid dosing is medically contraindicated for the employee.

(g) A health care provider shall not prescribe fentanyl for pain in an acute phase.

(h) A health care provider shall not prescribe benzodiazepines for pain or as muscle relaxers in an acute phase.

(i) A health care provider shall not prescribe carisoprodol and a targeted controlled substance in an acute phase.

(j) If an employee is taking benzodiazepines or carisoprodol prescribed by another health care provider, the health care provider shall not prescribe a targeted controlled substance to the employee without advising the employee of the potential risks of combining a targeted controlled substance and benzodiazepines or carisoprodol. The health care provider shall also communicate with the health care provider prescribing the benzodiazepines or carisoprodol to inform that health care provider of the prescription of a targeted controlled substance.

(k) A health care provider shall review the information in the CSRS pertaining to the employee for the preceding 12-month period every time the health care provider prescribes a targeted controlled substance in an acute phase. The health care provider shall document in the medical record the review and any potential contraindications to prescribing a targeted controlled substance found in the CSRS.

(l) After an employee has received the first prescription of a targeted controlled substance as described in Rule .0201 of this Section and an additional 30 days of treatment with a targeted controlled substance, the health care provider may only continue treatment with a targeted controlled substance after fulfilling the following requirements:

- (1) The health care provider shall administer and document in the medical record the results of a presumptive urine drug test as defined in Rule .0102 of this Subchapter. The health care provider may meet this requirement by requiring that the employee take a random, unannounced urine drug test. If the test results are positive for non-disclosed drugs or negative for prescribed controlled substances, the health care provider shall obtain confirmatory urine drug testing as defined in Rule .0102 of this Subchapter. Nothing herein prevents a health care provider from ordering confirmatory urine

- drug testing for a medical reason other than the presumptive urine drug test results if the medical reason is documented in the medical record. The health care provider may obtain the confirmatory urine drug test results before prescribing a targeted controlled substance. Alternatively, the health care provider may order a limited supply of a targeted controlled substance pending the results of the confirmatory urine drug test. The results of any confirmatory urine drug test shall be documented in the medical record.
- (2) The health care provider shall administer and document in the medical record the results of a tool for screening and assessing opioid risk that has been validated by clinical studies. Examples of these tools include the following:
- (A) NIDA Quick Screen V1.0 and NIDA-Modified ASSIST V2.0 (National Institute on Drug Abuse), available at [https://www.drugabuse.gov/sites/default/files/files/QuickScreen_Updated_2013\(1\).pdf](https://www.drugabuse.gov/sites/default/files/files/QuickScreen_Updated_2013(1).pdf);
- (B) Screener and Opioid Assessment for Patients with Pain (SOAPP)® Version 1.0 (Inflexxion, Inc.), available at <http://nhms.org/sites/default/files/Pdfs/SOAPP-14.pdf>;
- (C) SOAPP-Revised (Inflexxion, Inc.), available at <https://www.painedu.org>; and
- (D) Opioid Risk Tool (ORT)(Lynn Webster, MD), available at <http://agencymeddirectors.wa.gov/Files/opioidrisktool.pdf>.
- (3) The health care provider shall review and document in the medical record whether the information obtained by complying with Paragraph (k) of this Rule or Subparagraphs (1) or (2) of this Paragraph, or any other aspects of the employee's medical records or examination, indicate an increased risk for opioid-related harm. If the health care provider continues the prescription of a targeted controlled substance despite any increased risks identified, the health care provider shall document in the medical record the reasons justifying the continued prescription.
- (c) A health care provider shall not prescribe more than one targeted controlled substance at a time in a chronic phase without documentation of justification in the medical record. A health care provider shall not prescribe more than two targeted controlled substances at a time in a chronic phase, to include no more than one short-acting opioid and one long-acting or extended-release opioid.
- (d) A health care provider shall prescribe the lowest number of days' supply of a targeted controlled substance necessary in his or her medical opinion to treat an employee's pain.
- (e) A health care provider shall prescribe the lowest effective dosage of a targeted controlled substance, not to exceed 50 mg morphine equivalent dose per day.
- (1) However, the health care provider may prescribe a morphine equivalent dose higher than 50 mg per day, but not higher than 90 mg per day, after documenting the medical justification for the prescription, including a comparison of the expected benefits to the employee versus any potential risks of increasing the employee's dosage. If the health care provider prescribes a morphine equivalent dose higher than 50 mg per day in the chronic phase, the health care provider shall review at all subsequent evaluations whether the employee experienced the expected benefits and consider whether to continue the higher dosage and document the medical record accordingly.
- (2) If a health care provider considers it necessary to prescribe a morphine equivalent dose higher than 90 mg per day to treat an employee's pain, the health care provider shall seek preauthorization from the employer or carrier. If the employer or carrier authorizes, or the Commission orders, authorization of a prescription of a morphine equivalent dose higher than 90 mg per day, the health care provider shall review at all subsequent evaluations whether the employee experienced the expected benefits of the increased dosage and consider whether to continue the higher dosage and document the medical record accordingly.
- (f) A health care provider shall not prescribe transcutaneous, transdermal, transmucosal, or buccal opioid preparations included in G.S. 90-90(1) or (2) without documentation in the medical record that oral opioid dosing is medically contraindicated for the employee.
- (g) A health care provider shall seek preauthorization from the employer or carrier before prescribing transdermal fentanyl. A health care provider shall seek preauthorization from the employer or carrier before prescribing methadone for pain in a chronic phase.
- (h) A health care provider shall not prescribe benzodiazepines for pain or as muscle relaxers in a chronic phase.
- (i) A health care provider shall seek preauthorization from the employer or carrier before prescribing carisoprodol and a targeted controlled substance in a chronic phase. A health care provider

Authority G.S. 97-25; 97-25.4; 97-80(a); S.L. 2017-203, s. 4.

04 NCAC 10M .0203 PRESCRIPTION OF MEDICATION FOR PAIN IN A CHRONIC PHASE

- (a) This Rule applies to prescriptions for medication to an employee for pain during a chronic phase.
- (b) Before prescribing a targeted controlled substance, a health care provider shall document his or her medical opinion in the medical record that non-pharmacological and non-opioid therapies are insufficient to treat the employee's pain.

shall advise the employee of the potential risks of combining a targeted controlled substance and carisoprodol if both medications are prescribed.

(j) If an employee is taking benzodiazepines or carisoprodol prescribed by another health care provider, the health care provider shall not prescribe a targeted controlled substance to the employee without advising the employee of the potential risks of combining a targeted controlled substance and benzodiazepines or carisoprodol. The health care provider shall also communicate with the health care provider prescribing the benzodiazepines or carisoprodol to inform that health care provider of the prescription of a targeted controlled substance.

(k) A health care provider shall review the information in the CSRS pertaining to the employee for the preceding 12-month period at every appointment with the employee at which a targeted controlled substance is prescribed or every three months, whichever is more frequent. The health care provider shall document in the medical record the review and any potential contraindications to prescribing a targeted controlled substance found in the CSRS.

(l) Before first prescribing a targeted controlled substance in a chronic phase, a health care provider shall administer and document in the medical record the results of a presumptive urine drug test as defined in Rule .0102 of this Subchapter.

(m) Following compliance with Paragraph (l) of this Rule, a health care provider shall administer a presumptive urine drug test as defined in Rule .0102 of this Subchapter and document the results in the medical record a minimum of two times per year and a maximum of four times per year during a chronic phase, unless additional urine drug tests are authorized by the employer or carrier at the request of the health care provider. The limitation on the number of urine drug tests to be conducted per year without authorization by the employer or carrier for additional urine drug tests shall not apply in those cases where a patient is being prescribed targeted controlled substances for the purpose of substance use disorder treatment in addition to pain management.

(n) The health care provider may meet the requirements of Paragraphs (l) and (m) by requiring that the employee take random, unannounced urine drug tests.

(o) If the result of a presumptive urine drug test administered pursuant to this Rule is positive for non-disclosed drugs or negative for prescribed medications, the health care provider shall obtain confirmatory urine drug testing as defined in Rule .0102 of this Subchapter. The health care provider may obtain the confirmatory urine drug test results before prescribing a targeted controlled substance. Alternatively, the health care provider may order a limited supply of a targeted controlled substance pending the results of the confirmatory urine drug test. The results of any confirmatory urine drug test shall be documented in the medical record. Nothing herein prevents a health care provider from ordering a confirmatory urine drug test for a medical reason other than the presumptive urine drug test results if the medical reason is documented in the medical record.

(p) If an employee's medical treatment involving the prescription of targeted controlled substances is transferred to a health care provider in a different health care practice from the one that administered the opioid risk screening and assessment tool required by Rule .0202(1)(2) of this Section, the new health care provider shall administer and document in the medical record the

results of a tool for screening and assessing opioid risk that has been validated by clinical studies. Examples of these tools include the following:

- (1) NIDA Quick Screen V1.0 and NIDA-Modified ASSIST V2.0 (National Institute on Drug Abuse), available at [https://www.drugabuse.gov/sites/default/files/files/QuickScreen_Updated_2013\(1\).pdf](https://www.drugabuse.gov/sites/default/files/files/QuickScreen_Updated_2013(1).pdf);
- (2) Screener and Opioid Assessment for Patients with Pain (SOAPP)® Version 1.0 (Inflexxion, Inc.), available at <http://nhms.org/sites/default/files/Pdfs/SOAPP-14.pdf>;
- (3) SOAPP-Revised (Inflexxion, Inc.), available at <https://www.painedu.org>; and
- (4) Opioid Risk Tool (ORT)(Lynn Webster, MD), available at http://agencymeddirectors.wa.gov/Files/opioid_risktool.pdf.

(q) A health care provider shall document in the medical record whether the information obtained by complying with Paragraphs (k), (l), (m), (o) or (p) of this Rule indicates an increased risk for opioid-related harm. If the health care provider continues the prescription of a targeted controlled substance despite any increased risks identified, the health care provider shall document in the medical record the reasons justifying the continued prescription.

Authority G.S. 97-25.4; 97-80(a); S.L. 2017-203, s. 4.

SECTION .0300 – UTILIZATION RULES FOR OPIOID ANTAGONISTS

04 NCAC 10M .0301 CO-PRESCRIPTION OF OPIOID ANTAGONIST

(a) A health care provider prescribing a targeted controlled substance shall consider co-prescribing an opioid antagonist to the following:

- (1) employees taking benzodiazepines and a targeted controlled substance;
- (2) employees whose dosage exceeds a 50 mg morphine equivalent dose per day;
- (3) employees with a history of drug overdose;
- (4) employees with a history of substance use disorder;
- (5) employees with a history of an underlying mental health condition that places them at an increased risk for overdose;
- (6) employees with a medical condition such as respiratory disease, sleep apnea, or other comorbidities that places them at an increased risk for opioid toxicity, respiratory distress, or opioid overdose.

(b) If a health care provider prescribes an opioid antagonist pursuant to one or more of the conditions listed in Paragraph (a) of this Rule, the health care provider shall write the prescription to allow for product selection by the employer or carrier, including an intranasal formulation approved by the United States Food and Drug Administration.

Authority G.S. 97-25.3; 97-25.4; 97-80(a); S.L. 2017-203, s. 4.

**SECTION .0400 – UTILIZATION RULES FOR
NONPHARMACOLOGICAL TREATMENT FOR PAIN**

**04 NCAC 10M .0401 NONPHARMACOLOGICAL
TREATMENT FOR PAIN**

A health care provider shall consider and may prescribe non-pharmacological treatments for pain. Examples of these treatments include the following: physical therapy, chiropractic, acupuncture, massage, cognitive behavioral therapy, biofeedback, and functional restoration programs. The employer or carrier may request additional information from the health care provider regarding the prescribed treatment by any method allowed pursuant to the Workers' Compensation Act.

Authority G.S. 97-25.4; 97-80(a); S.L. 2017-203, s. 4.

**SECTION .0500 – UTILIZATION RULES FOR
TREATMENT FOR SUBSTANCE USE DISORDER**

**04 NCAC 10M .0501 TREATMENT FOR SUBSTANCE
USE DISORDER INVOLVING A TARGETED
CONTROLLED SUBSTANCE**

(a) If a health care provider believes, in his or her medical opinion, that an employee may benefit from an evaluation for discontinuation or tapering of a targeted controlled substance or for treatment for substance use disorder involving a targeted controlled substance, the health care provider may refer the employee to a health care provider specializing in such treatment for evaluation. The employer or carrier may request additional information from the health care provider regarding the referral by any method allowed pursuant to the Workers' Compensation Act.

(b) If treatment is recommended following the evaluation referenced in Paragraph (a) of this Rule, the employer or carrier may request additional information from the recommending health care provider regarding the treatment by any method allowed pursuant to the Workers' Compensation Act.

Authority G.S. 97-25.4; 97-80(a); S.L. 2017-203, s. 4.

**TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN
SERVICES**

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Child Care Commission intends to adopt the rules cited as 10A NCAC 09 .1715, .2204, .2207, .4001, amend the rules cited as 10A NCAC 10A NCAC 09 .1101, .1729, readopt with substantive changes the rules cited as 10A NCAC 09 .0401, .0513-.0515, .1904, .2201-.2203, .2205, .2206, .2208, .2209, .2213, .2216, .2217, .2703, .2801, .2802, .2804-.2809, .2817-.2826, .2827-.2830, and readopt without substantive changes the rules cited as 10A NCAC 09 .0516, .2701, .2702, .2704, and .2831.

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>.

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

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://ncchildcare.dhhs.state.nc.us/general/whatsnew.asp>

Proposed Effective Date: June 1, 2018

Public Hearing:

Date: February 12, 2018

Time: 1:00 p.m.

Location: Dix Grill, Employee Center, 1101 Cafeteria Drive, Raleigh, NC 27603

Reason for Proposed Action: *The NC Child Care Commission proposes rulemaking to rules in 10A NCAC 09 and to readopt rules in accordance with G.S. 150B-21.3A as part of the periodic review of rules process as follows: Rated License and Minimum Standards rules - .0513, .0514, .0515, .0516, .1101, .1705, .1729, .2801, .2802, .2804, .2805, .2806, .2807, .2808, .2809, .2817, .2818, .2819, .2820, .2821, .2822, .2823, .2824, .2825, .2826, .2827, .2828, .2829, .2830, and .2831.*

Rules in 10A NCAC 09 .2800 promote the quality of child care for children enrolled in child care facilities that choose to participate in the two through five star rated license process. The most important substantive changes involved applying rules previously required only of 2-5 star facilities to minimum requirements required of all child care centers as was requested by the North Carolina Child Care Commission. All family child care homes will now be required to develop and implement written operational policies and procedures and complete a self-study and self-assessment of the Family Child Care Rating Scale. All child care centers will now be required to develop administrative policies, operational/personnel policies, and parent participation policies currently required for centers that hold a 2-5 star rated license. Also during its review of rules, the Commission proposes to reorganize the rules so that they are sequential and user friendly to the provider and the public. Please note the following rules will be transferred to a new rule number: .2804 to .0513, .2805 to .0514, .2807 to .0515, .2808 to .0516.

Administrative Actions, Civil Penalties and Criminal Records Check rules - .0401, .1904, .2201, .2202, .2203, .2204, .2205, .2206, .2207, .2208, .2209, .2213, .2216, .2217, .2701, .2702, .2703, .2704 and .4001. The rules in Section .2200 pertain to the implementation of administrative actions and civil penalties that a facility could be penalized for if the regulations aren't practiced. These changes add clarification to the existing rules. Rules .0401, .1904, and .2208 are proposed for repeal. Rules in Section .2700 Criminal Records Check sets the standards for obtaining background checks for potential owners and employees that choose to work in child care. The proposed rules promote the

quality of child care for children enrolled in child care facilities that choose to participate in the two through five star rated license process. The proposed amendment to Rule .2703 includes a type of facility that operates in a personal residence. This amendment will align with the rule that specifies the grounds for issuance of a summary suspension of a child care license if the provider living in the Family Child Care Home is disqualified. The following rules will be transferred to a new rule number: .2204 to .2205, .2205 to .2206, .2206 to .2209, .2207 to .2213, .2209 to .2216, and .2213 to .2217.

Comments may be submitted to: Dedra Alston, 2201 Mail Service Center, Raleigh, NC 27699-2200; phone (919) 527-6502; fax (919) 715-0970; email Dedra.Alston@dhhs.nc.gov

Comment period ends: April 3, 2018

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** 10A NCAC 09 .2201, .2203, .2204, .2205, .2206, .2207, .2209, .2217, .2703, and .4001
- ☐ **Environmental permitting of DOT affected**
- ☒ **Analysis submitted to Board of Transportation**
- ☒ **Local funds affected** 10A NCAC 09 .0513, .0514, .0515, .1715, .2809, .2828, and .2830
- ☐ **Substantial economic impact (≥\$1,000,000)**
- ☒ **Approved by OSBM**
- ☒ **No fiscal note required by G.S. 150B-21.4** 10A NCAC 09 .1101, .1729
- ☒ **No fiscal note required by G.S. 150B-21.3A(d)(2)** 10A NCAC 09 .0401, .0516, .1904, .2202, .2208, .2213, .2216, .2701, .2702, .2704, .2801, .2802, .2804, .2805, .2806, .2807, .2808, .2817, .2818, .2819, .2820, .2821, .2822, .2823, .2824, .2825, .2826, .2827, .2829, and .2831

CHAPTER 09 - CHILD CARE RULES

SECTION .0400 - ISSUANCE OF PROVISIONAL AND TEMPORARY LICENSES

10A NCAC 09 .0401 PROVISIONAL LICENSES FOR FACILITIES

Authority G.S. 110-88(6); 110-99; 143B-168.3.

SECTION .2800 - VOLUNTARY RATED LICENSES

10A NCAC 09 .2804 .0513 ADMINISTRATIVE POLICIES

Centers ~~seeking two or more points for program standards~~ shall have administrative policies and practices which provide for selection and training of staff; communication with and opportunities for participation by parents; operational and fiscal management; and objective evaluation of the program, management and staff in accordance with the rules of this Section.

Authority G.S. 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2805 .0514 OPERATIONAL AND PERSONNEL POLICIES

(a) Each center shall have written policies ~~which that~~ describe the operation of the center and the services which are available to parents and their children. The operational policies shall include at least the following information:

- (1) the days and hours the center operates;
- (2) age range of children served;
- (3) admission requirements and enrollment procedures;
- (4) parent fees and payment plan;
- (5) information about services provided by the center, i.e. number of meals served, before/after school care, transportation;
- (6) items, if any, to be provided by parents;
- (7) a schedule of daily, weekly, and monthly cleaning duties;
- (8) written procedures for reporting suspected child abuse and neglect;
- (9) the center's discipline policy for behavior management;
- (10) a description of opportunities for parent participation; and
- (11) nutrition policies.

(b) Operational policies shall be discussed with parents ~~at the time they inquire about enrolling their child prior to enrollment~~ in the center. A copy of the policies shall be given to the parents when their child is enrolled and they shall be notified in writing of any changes.

(c) Copies of operational policies and any subsequent changes to those policies shall be distributed to the staff.

(d) Each center in which more than two staff are required to meet the enhanced standards for staff/child ratios shall have written personnel policy ~~which that~~ includes at least the following information:

- (1) job descriptions for each position;
- (2) minimum qualifications for each position including reference checks;
- (3) health and medical requirements;
- (4) requirements and provisions for in-service training;

- (5) provisions for leave time and other absence;
- (6) procedures for on-going supervision and regular evaluation of work performance; and
- (7) resignation and termination procedures.

(e) Personnel policies shall be discussed with each employee at the time of employment and a copy of the policies shall be available to all staff. Staff shall be notified in writing of any changes in personnel policies.

(f) In addition to all records required in Rule .0302(d) of this Chapter, each employee's personnel file shall contain an annual staff evaluation and staff development plan.

(g) All personnel files of employees hired after April 1, 1999 shall also ~~contain~~ contain

- (1) a signed and dated statement verifying that the employee received a copy of ~~his/her~~ his or her job description(s) and has reviewed the personnel and operational ~~policies, policies;~~ policies; and
- (2) ~~documentation that information concerning the enhanced standards was included during the employee's orientation.~~

Authority G.S. 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .~~2807~~ .0515 PARENT PARTICIPATION

(a) Each center shall have a plan which will encourage parent participation and inform parents about the program and its services. The plan shall be discussed with parents ~~at the time the child is enrolled~~ prior to enrollment and shall be posted in the center or a copy shall be given to parents ~~at the time of~~ prior to enrollment.

(b) The plan shall include the following:

Within first two (2) weeks of employment	Within first six (6) weeks of employment
Information regarding recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301	Firsthand observation of the center's daily operations
Review of the center's operational policies, including the center's safe sleep policy for infants, the center's policy for transportation, the center's identification of building and premises safety issues, the Emergency Preparedness and Response Plan, and the emergency medical care plan	Instruction in the employee's assigned duties
Adequate supervision of children in accordance with 10A NCAC 09 .1801	Instruction in the maintenance of a safe and healthy environment
Information regarding prevention of shaken baby syndrome and abusive head trauma and child maltreatment	Instruction in the administration of medication to children in accordance with 10A NCAC 09 .0803
Prevention and control of infectious diseases, including immunization	Review of the center's purposes and goals
	Review of the child care licensing law and rules
	Review of Section .2800 of this Chapter if the center has a <u>two- through five- star license at the time of employment</u>
	An explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource

- (1) a procedure for registering a child for child care which involves both parents when possible and which encourages a visit to the center by the child and the child's parents before the child begins attending the center;
- (2) opportunities for caregiving staff to meet with parents on a regular basis to discuss their child's needs and progress and to exchange information about the program;
- (3) activities which provide parents opportunities to participate in the center's program on an individual basis and as a group;
- (4) a procedure for parents who need information or have complaints about the child care program.

Authority G.S. 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .~~2808~~ .0516 NIGHT CARE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .1100 – CONTINUING EDUCATION AND PROFESSIONAL DEVELOPMENT

10A NCAC 09 .1101 NEW STAFF ORIENTATION REQUIREMENTS

(a) Each center shall ensure that each new employee who is expected to have contact with children receives 16 clock hours of on-site orientation within the first six weeks of employment. As part of this orientation, each new employee shall complete six clock hours of orientation within the first two weeks of employment.

(b) New staff orientation shall include an overview of the following topics, focusing on the operation of the center:

	An explanation of the employee's obligation to cooperate with representatives of State and local government agencies during visits and investigations
	Prevention of and response to emergencies due to food and allergic reactions
	Review of the center's handling and storage of hazardous materials and the appropriate disposal of biocontaminants

Authority G.S. 110-85; 110-91(11); 143B-168.3.

SECTION .1700 – FAMILY CHILD CARE HOME REQUIREMENTS

10A NCAC 09 .1715 OPERATIONAL POLICIES

(a) Each operator shall have written operational policies that include at least the following information:

- (1) the days and hours of operation;
- (2) age range of children served;
- (3) admission requirements and enrollment procedures;
- (4) parent fees and payment plan;
- (5) information about services provided by the operator, i.e. number of meals served, before/after school care, transportation;
- (6) items, if any, to be provided by parents;
- (7) a schedule of daily, weekly, and monthly cleaning duties;
- (8) written procedures for reporting suspected child abuse and neglect;
- (9) the operator's discipline policy for behavior management;
- (10) a description of opportunities for parent participation; and
- (11) nutrition policies.

(b) Operational policies shall be discussed with parents prior to enrollment in the home. A copy of the policies shall be given to the parents when their child is enrolled and they shall be notified in writing of any changes.

Authority G.S. 110-85; 110-88; 110-91; 143B-168.3.

10A NCAC 09 .1729 ADDITIONAL CAREGIVER AND SUBSTITUTE PROVIDER QUALIFICATIONS

(a) An individual who provides care for five hours or more in a week during planned absences of the family child care home operator shall:

- (1) be 21 years old;
- (2) have a high school diploma or GED;
- (3) have completed a First Aid and cardiopulmonary resuscitation (CPR) course as described in Rule .1708(b)(3) and (4) of this Section;
- (4) have completed a health questionnaire;
- (5) have proof of negative results of a tuberculosis test completed within 12 months prior to the first day of providing care;
- (6) have submitted criminal records check forms as required in Rule .2703 of this Chapter;

- (7) have documentation of annual on-going training as described in Rule .1703(d) of this Section after the first year of employment;
- (8) have completed ITS-SIDS training, if licensed to care for infants;
- (9) have completed Recognizing and Responding to Suspicions of Child Maltreatment training; and
- (10) have documentation that the operator reviewed requirements found in this Chapter, including the Emergency Preparedness and Response Plan, and in G.S. Chapter 110, Article 7.

While the individual provides care at a family child care home, copies of required information in Subparagraphs (1) through (10) of this Paragraph shall be on file in the home available for review by the Division.

(b) An individual who provides care for less than five hours in a week during planned absences of the operator shall be literate and meet all requirements listed in Paragraph (a) of this Rule, except the requirements for annual training and a high school diploma or GED.

(c) The operator shall conduct 16 hours of orientation with any caregivers, including substitute providers, and volunteers who are providing care prior to the individual caring for children. The orientation shall include an overview of the following topics, specifically focusing on the operation of the facility:

- (1) recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;
- (2) review of the home's operational policies, including the written plan of care, safe sleep policy, the transportation policy, identification of building and premises safety issues, the emergency medical care plan and the Emergency Preparedness and Response Plan;
- (3) adequate supervision of children in accordance with Rule .1711(a) of this Section;
- (4) information regarding prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (5) prevention and control of infectious diseases, including immunization;
- (6) firsthand observation of the home's daily operations;
- (7) instruction regarding assigned duties;
- (8) instruction in the maintenance of a safe and healthy environment;

- (9) instruction in the administration of medication to children in accordance with Rule .1720(b) of this Section;
- (10) review of the home's purposes and goals;
- (11) review of G.S. 110, Article 7 and 10A NCAC 09;
- (12) review of Section .2800 of this Chapter if the operator has a two- through five- star license at the time of employment;
- ~~(12)~~(13) an explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource;
- ~~(13)~~(14) an explanation of the individual's obligation to cooperate with representatives of State and local government agencies during visits and investigations; and
- ~~(14)~~(15) prevention of and response to emergencies due to food and allergic reactions.

The operator and individual providing care shall sign and date a statement that attests that this review was completed. This statement shall be kept on file in the home available for review by the Division.

(d) An individual who provides care during unplanned absences of the operator, such as medical emergencies, shall be 18 years old and submit criminal records check forms as required in Rule .2703(j) of this Chapter. The children of an emergency caregiver shall not be counted in the licensed capacity for the first day of the emergency caregiver's service.

Authority G.S. 110-85; 110-88; 110-91; 143B-168.3.

10A NCAC 09 .1904 ADMINISTRATIVE SANCTIONS

Authority G.S. 110-88(5); 110-88(6a); 110-102.2; 110-103.1; 143B-168.3; 150B-3; 150B-23.

SECTION .2200 - ADMINISTRATIVE ACTIONS AND CIVIL PENALTIES

10A NCAC 09 .2201 ADMINISTRATIVE ACTIONS AND CIVIL PENALTIES: GENERAL PROVISIONS

(a) Pursuant to G.S. 110-102.2, the ~~secretary~~ Secretary or their designee may order one or more administrative ~~penalties~~ actions, civil penalties, or both, against any owner of a child care facility operator who violates any provision of ~~Article 7 of Chapter 110 of the General Statutes or of this Chapter.~~ G.S. 110, Article 7, or rules in this Chapter or 10A NCAC 10. The administrative actions and civil penalties include:

- (1) a written reprimand as set forth in Rule .2202 of this Section;
- (2) a written warning as set forth in Rule .2203 of this Section;
- (3) a provisional child care facility license or provisional notice of compliance not to exceed 12 months as set forth in Rule .2204 of this Section;
- (4) a special provisional child care facility license or special provisional notice of compliance not

to exceed six months and may include a limited enrollment restriction as set forth in Rule .2207 of this Section;

- (5) a probationary child care facility license or probationary notice of compliance not to exceed 12 months as set forth in Rule .2205 of this Section;
- (6) revocation of the child care facility license, or an order to cease operation to operate a child care facility as set forth in Rule .2209 of this Section;
- (7) summary suspension of the child care facility license, notice of compliance, or other permit to operate a child care facility that results in immediate closure of the facility as set forth in Rule .2213 of this Section;
- (8) denial of an application or child care facility license as set forth in Rule .2215 of this Section;
- (9) suspension of the child care facility license, notice of compliance, or other permit to operate a child care facility not to exceed 12 months and results in closure of the facility on the date of the order as set forth in Rule .2206 of this Section; and
- (10) the assessment of civil penalties as set forth in Rules .2208, .2214, .2216 and .2217 of this Section.

(b) The Division shall consider the following factors when determining the type of administrative action and civil penalty to be issued:

- (1) the severity of the violation or incident;
- (2) the probability of recurrence of the violation or incident;
- (3) all prior incidents of where the Division has determined that abuse, neglect, or child maltreatment occurred at the facility;
- (4) the operator's response to the violation or incident, including actions taken to prevent recurrence such as revision to facility policies and procedures or additional staff training;
- (5) a self- report of the violation or incident to the Division by the operator; and
- (6) information or records received from local, State, or federal agencies relevant to the violation or incident.

Nothing shall prevent the issuance of an administrative action or civil penalty for a situation that does not fit the specified criteria set forth in this Section so long as these factors are considered by the Division.

(c) For purposes of this Section, the following definitions shall apply:

- (1) "Pattern of noncompliance" means documented violations of G.S. 110, Article 7, this Chapter, or 10A NCAC 10 during a time period of 18 months or less involving similar situations or incidents.
- (2) "History of noncompliance" means documented violations of G.S. 110, Article 7, this Chapter, or 10A NCAC 10 documented

over the duration of the child care facility license and includes any previous administrative actions.

(3) "Serious harm" means:

- (A) physical, psychological, or emotional injury to a child by a caregiver;
- (B) an act of omission or commission to a child by a caregiver that is likely to result in or that results in permanent limitations or disability;
- (C) sexual abuse; or
- (D) the death of a child.

(d) The Division may levy a civil penalty against any owner who violates any provision of G.S. 110, Article 7, this Chapter, or 10A NCAC 10, or who fails to take corrective action after being provided written notice by the Division.

(b) Nothing in this Section shall restrict the Secretary from using any other statutory or civil penalty available. A civil penalty in accordance with G.S. 110-103.1 and Section .2200 of this Chapter may be imposed in conjunction with any other administrative activity.

(e) The Division shall issue a prior notice of administrative action to the owner or prospective owner regarding the determination to issue a provisional child care facility license or notice of compliance, special provisional child care facility license or notice of compliance, probationary child care facility license or notice of compliance, revocation of the child care facility license, order to cease operation, suspension of the child care facility license or notice of compliance, or denial of a child care facility license or notice of compliance. The owner or prospective owner shall be given an opportunity to respond in writing as to why the administrative action should not be taken. The written response shall be submitted to the Division within 15 days of receiving the prior notice of administrative action. The Division shall grant an extension of time not to exceed an additional 15 days, so long as the request is received before the initial response time has ended.

(f) The Division may issue a less stringent administrative action based upon the owner's or prospective owner's written response or the factors in Paragraph (b) of this Rule.

(g) The Division shall issue a final notice of administrative action to the owner or prospective owner. The final notice of administrative action shall describe the reasons for its issuance including identification of the statutes or rules violated.

(h) When a corrective action plan is included in the notice of administrative action, it shall describe those actions necessary for the operator to be in full compliance with requirements of G.S. 110, Article 7, this Chapter, or 10A NCAC 10, and shall specify a time period for completion of additional requirements that may prevent recurrence such as training or policy implementation. Corrective action plans may be issued only with a written warning, provisional child care facility license or notice of compliance, special provisional child care facility license or notice of compliance, and probationary child care facility license or notice of compliance. Subject to the exceptions in Paragraph (i) of this Rule, corrective action plans are stayed during the pendency of an appeal.

(i) Immediate corrective action plans resulting from an investigation or determination of child maltreatment as set forth in G.S. 110-105.3(f) and restrictions that prohibit new enrollment

as set forth in G.S. 110-105.6(f) shall not be stayed during the pendency of an appeal.

(e)(j) The issuance of an administrative action or civil penalty may be appealed pursuant to G.S. 150B-23.

(d)(k) Following the substantiation of any abuse or neglect complaint or the issuance of any administrative action against a child care facility, owner, the operator shall: shall post the administrative action, cover letter, and corrective action plan, if applicable, received from the Division in a prominent location near the entrance of the child care facility as follows:

(1) an administrative action shall remain posted during the pendency of an appeal and throughout the effective time period of an administrative action.

(2) the effective time period shall end:

(A) three months from receipt of a final notice of administrative action containing a written reprimand;

(B) three months and upon receipt of a closure letter from the Division stating that the corrective action plan has been completed for a final notice of administrative action containing a written warning;

(C) upon issuance of a star rated license following a final notice of administrative action containing a special provisional child care facility license, a provisional child care facility license, or a probationary child care facility license; or

(D) upon re-issuance of a notice of compliance following a final notice of administrative action containing a special provisional notice of compliance, a provisional notice of compliance, or a probationary notice of compliance.

(1) maintain copies of documentation of the substantiated complaint investigation or of the administrative action issued against the facility for the past three years in a binder, which is accessible to parents;

(2) within 30 days, notify the parents of the children currently enrolled that a complaint was substantiated or that an administrative action was taken against the facility, including administrative actions that may be stayed pending appeal. The notice shall:

(A) be in writing;

(B) include information on the nature of the substantiated complaint or the type of administrative action taken; and

(C) state where the binder containing copies of the substantiated complaint investigation or administrative action may be found on site for review by the parents; and

- (3) ~~document the date that the written notice was given to all parents and have parents sign an acknowledgement that they have received said notice.~~

(l) Following the issuance of an administrative action, the Division shall:

- (1) monitor the child care facility for compliance with health and safety requirements, and license restrictions during the time period of the administrative action, including administrative actions that may be stayed pending appeal; and
- (2) monitor the child care facility for compliance with the terms of the administrative action, including license restrictions and completion of the corrective action plan, except for administrative actions that are stayed pending appeal.

(m) If the operator fails to achieve compliance during the specified time period of an administrative action, the Division may assess a civil penalty and take more restrictive action to achieve compliance, including or up to issuing a revocation of the child care facility license, notice of compliance or other permit to operate a child care facility, or an order to cease operation.

Authority G.S. 110-85; 110-88; 110-90; 110-102.2; 110-103.1; 110-105.3; 110-105.5; 110-105.6; 143B-168.3. 150B-23.

10A NCAC 09 .2202 WRITTEN REPRIMANDS

A written reprimand may be issued in accordance with 10A NCAC 09 .2201 for any violation related to a brief event that will not recur in the ordinary operation of the child care facility and the Division has determined that no corrective action plan is required.

~~(a) A written reprimand may be issued to censure any violation which the Division determines to have been a brief uncustomary event which is unlikely to recur in the ordinary operation of the center or home.~~

~~(b) The reprimand shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated.~~

Authority G.S. 110-88; 110-90; 110-102.2; 143B-168.3.

10A NCAC 09 .2203 WRITTEN WARNINGS

~~(a) A written warning and a corrective action plan may be issued to a child care facility licensee in accordance with the provisions of 10A NCAC 09 .2201(a) and (h) and G.S. 110-88(6a) in regard to any violation to allow the operator an opportunity to demonstrate compliance with all requirements, including but not limited to these situations:~~

- (1) substantiated violations as a result of a complaint that meets criteria for an administrative action set forth in this Rule;
- (2) citation of eight or more rule violations in a single visit where the operator does not meet the of other administrative actions set forth in this Section and has not been subject to an administrative action within the last three years;

- (3) citation of one of the following rules on two consecutive visits as set forth in this Paragraph of this Rule:

- (a) supervision of children;
- (b) discipline, nurture, or care of children;
- (c) staff/child ratio;
- (d) group size;
- (e) licensed capacity; or
- (f) permit restriction;

- (4) receipt of two provisional sanitation classifications within one year or a disapproved sanitation that was corrected prior to the Division being notified of the disapproved status;

- (5) receipt of documentation regarding lead hazards with remediation as provided by the health inspector; or

- (6) two citations of a violation of the provisions of G.S. 110-90.2 regarding criminal history record check requirements within an 18-month time period.

~~(b) The written warning and corrective action plan shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated. It shall also describe those actions necessary for the operator to be in full compliance with requirements and shall specify a time period for compliance to be achieved.~~

~~(c) If the operator fails to achieve compliance during the specified time period, the Division shall employ more restrictive action to achieve compliance or shall revoke the permit.~~

Authority G.S. 110-88; 110-90; 110-102.2; 143B-168.3.

10A NCAC 09 .2204 PROVISIONAL CHILD CARE FACILITY LICENSE OR PROVISIONAL NOTICE OF COMPLIANCE

A provisional child care facility license or provisional notice of compliance may be issued to a child care facility licensee in accordance with the provisions of 10A NCAC 09 .2201(a) and (h) and G.S. 110-88(6) for any period of time not to exceed 12 consecutive months for the following reasons:

- (1) substantiated violations as a result of a complaint that meets criteria for an administrative action set forth in this Rule;
- (2) to allow a time period for correcting a violation of the building, fire, or sanitation requirements, provided that the inspector documents that the violation is not hazardous to the health or safety of the children;
- (3) receipt of more than two provisional sanitation classifications within 12 months, regardless of the approved sanitation classifications that may follow;
- (4) receipt of two or more disapproved sanitation classifications within 12 months, regardless of the approved sanitation classifications that may follow;
- (5) receipt of a disapproved sanitation classification followed by a provisional

- sanitation classification at any time, regardless of the approved sanitation classifications that may follow;
- (6) when the compliance history of the facility drops below the minimum requirement set forth in G.S. 110-90;
- (7) citation of one of the following rules on two consecutive visits:
- (a) Supervision of children;
 - (b) Discipline, nurture, or care of children;
 - (c) Staff/child ratio;
 - (d) Group size;
 - (e) Licensed capacity;
 - (f) CPR training;
 - (g) First Aid training;
 - (h) ITS-SIDS training; and
 - (i) Health and Safety Training;
- (8) citation of 16 or more rule violations in a single visit where the operator does not meet the criteria of other administrative actions as set forth in this Section;
- (9) more than two citations of a violation of the provisions of G.S. 110-90.2 regarding criminal history record check requirements within an 18-month time period; or
- (10) pattern of noncompliance.

Authority G.S. 110-88(6); 110-90; 110-99; 143B-168.3.

10A NCAC 09 ~~.2204~~ .2205 PROBATIONARY LICENSE OR PROBATIONARY NOTICE OF COMPLIANCE

A probationary license or probationary notice of compliance may be issued in accordance with the provisions of 10A NCAC 09 .2201 for any period of time not to exceed 12 consecutive months for the following reasons:

- (1) a violation of any section of the G.S. 110, Article 7 of this Chapter that has been willful, continual, or hazardous to the health or safety of children;
 - (2) the operator has failed to comply with the terms of a corrective action plan issued with a written warning or provisional license or notice of compliance;
 - (3) there is a history of noncompliance with child care requirements; or
 - (4) when, in accordance with G.S. 110-105.3, the Division determines that child maltreatment occurred in a child care facility, and there is a pattern or history of noncompliance.
- (a) ~~A permit may be placed in probationary status for a period of time not to exceed one year when, in the Division's determination, violation of any section of the statutes or rules has been willful, continual, or hazardous to health or safety.~~

- (b) ~~The document ordering probation shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated and shall specify the period of probation. It shall also specify terms of probation with which the operator must comply to retain the permit.~~
- (c) ~~The order of probation shall be posted in a prominent place in the center or home during the probationary period. If probation is stayed pending appeal, the probation order shall remain posted in the center or home pending final action.~~
- (d) ~~Failure of the operator to comply with the terms of probation shall result in the commencement of proceedings to suspend or revoke the permit.~~

Authority G.S. 110-88; 110-90; 110-102.2; 143B-168.3.

10A NCAC 09 ~~.2205~~ .2206 SUSPENSION

Suspension of a child care facility license or suspension of a notice of compliance may be ordered to a child care facility licensee in accordance with the provisions of 10A NCAC 09 .2201 and for a time period not to exceed 12 consecutive months for the following reasons:

- (1) the owner of the child care facility is a corporate entity that has been placed under revenue suspension by the North Carolina Secretary of State;
- (2) when the Division has issued a provisional child care facility license or notice of compliance related to building, fire, or sanitation requirements and the operator has failed to comply; or
- (3) allowance of a specific time period for correcting a violation of building, fire, or sanitation requirements, provided that the appropriate inspector documents that closure of the child care facility is necessary to protect health or safety of children during correction.

The suspension of a child care facility license or suspension of a notice of compliance shall not be stayed during the pendency of an appeal.

- (a) ~~Suspension of a permit for a period of time not to exceed 45 days may be ordered when violation of any section of the statutes or rules has been willful, continual, or hazardous to health or safety, and/or the operator has not made reasonable efforts to conform to standards.~~
- (b) ~~The operator shall be notified in advance of the determination to suspend the permit and the reasons for such action. The operator may request~~

an agency review of the situation and shall be given an opportunity to show compliance with all requirements for retention of the permit.

- (c) ~~The suspension order shall specify the period of suspension and the reasons for its issuance. The operator shall surrender the permit to the Division on the effective date of the suspension order and shall refrain from operating a center or home during the suspension period.~~
- (d) ~~If suspension is stayed pending appeal, the suspension order shall be posted in a prominent place in the center or home pending final action.~~
- (e) ~~Failure to comply with the suspension order shall result in civil action in accordance with G.S. 110-103.1 and/or criminal penalty in accordance with G.S. 110-103. The Division may also seek injunctive relief in accordance with G.S. 110-104.~~

Authority G.S. 110-88; 110-90; 110-102.2; 143B-168.3; 150B-3.

10A NCAC 09 .2207 SPECIAL PROVISIONAL CHILD CARE FACILITY LICENSE OR SPECIAL PROVISIONAL NOTICE OF COMPLIANCE

A special provisional child care facility license or special provisional notice of compliance may be issued to a child care facility licensee in accordance with the provisions of 10A NCAC 09 .2201(a) and (h). A special provisional child care facility license or special provisional notice of compliance may be issued for a six-month period when the Division determines that child maltreatment occurred in a child care facility. A limited enrollment restriction may be included on the special provisional child care facility license or special provisional notice of compliance that prevents new children from being enrolled during the special provisional time period until the Division is satisfied that unsafe conditions no longer exist.

Authority G.S. 110-88; 110-90; 110-105.3; 110-105.6; 143B-168.3.

10A NCAC 09 .2208 CIVIL PENALTIES: SCOPE AND PURPOSE

Authority G.S. 110-90(9); 110-103.1; 143B-168.3.

10A NCAC 09 .2206 .2209 REVOCATION OF A CHILD CARE FACILITY LICENSE OR AN ORDER TO CEASE OPERATION

(a) ~~Revocation of a permit child care facility license or an order to cease operation may be ordered issued to a child care facility licensee in accordance with the provisions of 10A NCAC 09 .2201 for the following reasons: when violation of any section of the statutes or rules has been willful, continual, or hazardous to~~

~~health or safety, or the operator has not made reasonable efforts to conform to standards or is unable to comply.~~

- (1) child maltreatment has occurred in a child care facility and serious harm occurred as set forth in Rule .2201(c)(3) of this Section;
- (2) when one or more prior determinations of child maltreatment have occurred at a child care facility within three years;
- (3) violation of any section of the statutes or rules has been willful, continual, or hazardous to health or safety of children;
- (4) the operator fails to comply with an implemented protection plan as set forth in G.S. 110-105.3(e);
- (5) the operator fails to comply with immediate corrective action required pursuant to an investigation or determination of child maltreatment as set forth in G.S. 110-105.3(f);
- (6) the operator falsifies information in violation of G.S. 110-91(14);
- (7) the operator fails to comply with the terms of an administrative action or corrective action plan issued with a special provisional or probationary child care facility license or notice of compliance;
- (8) the compliance history of the facility drops below the minimum requirement set forth in G.S. 110-90, and the conditions at the facility are hazardous to the health and safety of the children or staff;
- (9) history of noncompliance;
- (10) receipt of a disapproved sanitation classification that is not corrected with a provisional or approved classification;
- (11) change of ownership of a child care facility without proper notification to the Division as specified in Rules 10A NCAC 09 .0204(a), .0403(a), and .1702(j);
- (12) change of location of a child care facility without proper notification to the Division as specified in Rules 10A NCAC 09 .0204(b), .0403(a), and .1702(d); or
- (13) the owner of the child care facility is a corporate entity that has been administratively dissolved from the North Carolina Secretary of State.

~~(b) The operator shall be notified in advance of the determination to revoke the permit and the reasons for such action. The operator may request an agency review of the situation and shall be given an opportunity to show compliance with all requirements for retention of the permit.~~

~~(c) The revocation order shall specify the reasons for its issuance and the effective date of revocation and shall be posted prominently in the center or home immediately upon receipt. The operator shall surrender the permit on the effective date of the revocation order and shall refrain from operating the center or home thereafter.~~

~~(d) Failure to comply with the revocation order shall result in civil action in accordance with G.S. 110-103.1 or a criminal penalty in~~

accordance with G.S. 110-103, or both. The Secretary may also seek injunctive relief in accordance with G.S. 110-104.

Authority G.S. 110-88; 110-90; 110-102.2; 143B-168.3; 150B-3.

**10A NCAC 09 ~~.2207~~ .2213 SUMMARY
SUSPENSION**

Summary suspension of a child care facility may be ordered to a child care facility licensee in accordance with the provisions of 10A NCAC 09 .2201 and G.S. 150B-3(c) when, in the Division's determination, immediate action is required to protect the health and safety of children in a child care facility regulated by the Division. The order shall be effective on the date specified in the order. The order shall be effective during proceedings to suspend or revoke the child care facility license or during proceedings to cease operation of a facility with a notice of compliance. Administrative actions summarily suspending a child care facility license, notice of compliance, other permit to operate a child care facility shall not be stayed during the pendency of an appeal pursuant to G.S. 150B-3(c).

- (a) ~~Summary suspension of a permit may be ordered in accordance with G.S. 150B-3(c) when, in the Division's determination, emergency action is required to protect the health, safety, or welfare of children in a child care facility regulated by the Division.~~
- (b) ~~The suspension order shall specify the reasons for its issuance including identification of the specific section of the statutes and rules violated and the determination of the need for emergency action. The order shall be effective on the date specified in the order. The order shall be effective during proceedings to suspend or revoke the permit.~~
- (c) ~~The operator shall surrender the permit on the effective date of the order and shall refrain from operating a center or home until final action is determined.~~
- (d) ~~Failure to comply with the summary suspension order shall result in civil action in accordance with G.S. 110-103.1, and/or criminal penalty in accordance with G.S. 110-103. The Division may also seek injunctive relief in accordance with G.S. 110-104.~~

Authority G.S. 110-88; 110-90; 110-102.2; 110-105.6; 143B-168.3; 150B-3.

**10A NCAC 09 ~~.2209~~ .2216 AMOUNT OF PENALTY
CIVIL PENALTIES FOR CHILD CARE FACILITIES**

(a) The amount of the penalty assessed to a child care facility by the Secretary shall be based upon the following factors:

- (1) willful or negligent ~~non-compliance~~ noncompliance by the ~~operator, operator;~~
- (2) history of ~~non-compliance;~~ noncompliance;
- (3) extent of deviation from the ~~regulation;~~ rule or law;
- (4) evidence of ~~good-faith~~ good-faith effort to ~~comply;~~ comply; and
- (5) any other factors relevant to the ~~unique~~ situation.

(b) The amount of the penalty, within the limitation established by G.S. 110-103.1, shall be in accordance with the following schedule: schedule and with consideration of the factors set forth in Paragraph (a) of this Rule:

- (1) ~~Where~~ where a violation presents a clear and imminent danger to the safety of the children, a civil penalty up to one thousand dollars (\$1000) may be imposed;
- (2) ~~Where~~ where a violation endangers, or has the potential to endanger the children's health, safety, or well-being, a civil penalty up to five hundred dollars (\$500.00) may be imposed; or
- (3) ~~Where~~ where a violation does not directly endanger the children, a civil penalty of up to two hundred and fifty dollars (\$250.00) may be imposed.

(c) A separate penalty may be imposed for each violation.

Authority G.S. 110-88; 110-90(9); 110-103.1; 143B-168.3.

**10A NCAC 09 ~~.2213~~ .2217 SCHEDULE OF CIVIL
PENALTIES FOR CHILD CARE CENTERS**

(a) The following penalties may be assessed against child care centers by the Secretary as defined in G.S. ~~110-86(3); 110-86(3)~~ for each violation documented. The Division shall consider the factors set forth in Rule .2216(a) of this Section when determining the amount of civil penalties assessed.

(b) A civil penalty in an amount up to one thousand dollars (\$1,000) may be imposed for the following violations:

- (1) ~~Non-compliance~~ Noncompliance with the ~~standards~~ rules and laws for:
 - (A) ~~Staff-child~~ staff-child ratios;
 - (B) ~~Adequate~~ adequate supervision of children;
 - (C) ~~Transportation~~ transportation of children; or
 - (D) ~~Use~~ use of swimming pools and other swim areas;
 - (E) administration of medication;
 - (F) discipline, nurture, or care of children; or
 - (G) medical action plan requirements;
- (2) Disapproved fire safety, building or sanitation inspection reports;
- (3) Exceeding licensed capacity of center, or use of unauthorized space;
- (4) Change of ownership or relocation of center without prior notification to the Division;
- (5) Determination of child maltreatment at the center as set forth in G.S. 110-105.3;

~~Substantiation that a child (or children) was abused or neglected while in the care of the center; or~~

(6) ~~Willful, repeated pattern of non-compliance~~ noncompliance with any requirement over extended period of ~~time~~; time; or

(7) Denial of entry to an authorized representative of the Department or Division.

(c) A civil penalty in an amount up to five hundred dollars (\$500.00) may be imposed for the following violations:

(1) ~~Non-compliance~~ Noncompliance with the ~~standards~~ rules and laws for:

(A) ~~Staff~~ staff health requirements;

(B) ~~Staff~~ staff qualifications;

(C) ~~Children's~~ children's health requirements;

(D) ~~Proper~~ proper nutrition;

(E) ~~Sanitation~~ sanitation and personal hygiene practices;

(F) ~~Discipline of children;~~

(G)(F) ~~Indoor~~ indoor or outdoor space; or

(H)(G) ~~Emergency~~ emergency medical plan; or

(2) Failure to comply with a corrective action ~~plan~~; plan.

(3) ~~Denial of entry to an authorized representative of the department or Division.~~

(d) A civil penalty in an amount up to two hundred and fifty dollars (\$250.00) may be imposed for the following violations:

(1) ~~Non-compliance~~ Noncompliance with the ~~standards to provide~~; rules and laws for:

(A) safe environment;

(A)(B) ~~Age appropriate~~ age-appropriate activities; or

(B)(C) ~~Staff development~~; staff development;

(2) Failure to post ~~provisional permit~~; current child care license, notice of compliance or other permit to operate a child care facility; or

(3) Failure to maintain ~~accurate records~~; records as set forth in Rule .2318 of this Chapter.

(e) Violation of other standards may result in the assessment of a penalty according to the effect or potential effect of the violation on the safety and well-being of the child.

Authority G.S. 110-88; 110-90(9); 110-103.1; 143B-168.3.

SECTION .2700 - CRIMINAL RECORDS CHECKS

10A NCAC 09 .2701 SCOPE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2702 DEFINITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2703 CRIMINAL HISTORY RECORD CHECK REQUIREMENTS FOR CHILD CARE PROVIDERS

(a) In addition to the requirements in Rules .0302 and .1702 of this Chapter, a child care provider shall submit the following to

the Division prior to the issuance of a license or prior to beginning employment:

(1) a signed and completed Authority for Release of Information form;

(2) fingerprint impressions submitted on the form(s) required by the Division and State Bureau of Investigation; and

(3) if a child care provider is an out-of-state resident, he or she shall also submit a certified local history from the Clerk of Superior Court in his or her county of residence.

All required forms can be found on the Division's website at http://ncchildcare.dhhs.state.nc.us/general/dhhsrsc_childcare.asp.

(b) If the child care provider has a criminal history of convictions, pending indictment of a crime, or pending criminal charges, he or she may submit to the Division additional information concerning the conviction or charges that the Division shall use in making the determination of the child care provider's qualification. The Division shall also consider the following in making its decision:

(1) length of time since conviction;

(2) whether the child care provider is currently on probation;

(3) nature of the offense;

(4) circumstances surrounding the commission of the offense or offenses;

(5) evidence of rehabilitation;

(6) number and type of prior offenses; and

(7) age of the child care provider at the time of occurrence.

(c) If the child care provider is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity or a person designated by the chief executive officer as responsible for the operation of the facility, shall complete the criminal history record check as specified in Paragraph (a) of this Rule.

(d) If a Letter of Intent to Operate pursuant to G.S. 110-106 is submitted to the Division, the person signing the Letter of Intent shall submit all forms as required in Paragraph (a) of this Rule.

(e) Child care providers must have a valid qualification letter prior to employment or living in the family child care home and the qualification letter must be kept on file at the facility for review by representatives of the Division.

(f) Child care providers found to be disqualified are not eligible for employment in child care until a qualification letter has been issued by the Division.

(g) Child care providers determined by the Division to be disqualified shall be terminated by the center or family child care home immediately upon receipt of the disqualification notice.

(h) Disqualification of a child care provider living in a family child care home shall be grounds for issuance of a summary suspension of the family child care home or center in a residence license in accordance with 10A NCAC 09 ~~.2207~~; .2213.

(i) Refusal on the part of the employer to dismiss a child care provider who has been found to be disqualified shall be grounds for suspension, denial, or revocation of the license or any other administrative action or civil penalty permitted by law or rule. If an applicant appeals the disqualification, the child care provider shall not be employed during the appeal process.

(j) Operators, as defined by G.S. 110-86(7), shall include the criminal history mandatory reporting requirement in all new employee orientation information. Mandatory reporting requires all child care providers and household members who have incurred any pending charges, indictments or convictions (other than minor traffic offenses) since the last qualification letter was issued by the Division to notify the operator of such charges within five business days or before returning to work, whichever comes first. The operator shall notify the Division of any such pending charges, indictments or convictions within one business day of being notified.

(k) The qualification letter is valid for a maximum of three years from the date of issuance.

(l) Prior to the expiration date of the qualification letter, the child care provider shall complete and submit the forms listed in Paragraph (a) of this Rule.

(m) After a child care provider has been qualified, the Division may complete a new criminal history record check at any time when the Department of Social Services or the Division of Child Development and Early Education conducts an investigation that references the child care provider.

(n) Any individuals who live in the household who have had their 16th birthday after the initial licensing of a family child care home, shall complete and submit the forms listed in Paragraph (a) of this Rule to the Division within five business days.

(o) Child care operators must notify the Division of any new child care providers who are hired or moved into the home within five business days by submitting the form provided by the Division.

Authority G.S. 110-85; 110-86(7); 110-90.2; 110-90.2(a); 110-106; 114-19.5; 143B-168.3; S.L. 2012-160, s.1.

10A NCAC 09 .2704 CRIMINAL HISTORY RECORD CHECK REQUIREMENTS FOR NONLICENSED CHILD CARE PROVIDERS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .2800 - ~~VOLUNTARY TWO THROUGH FIVE~~ STAR RATED LICENSES

10A NCAC 09 .2801 SCOPE

(a) This Section applies to all child care facilities that have achieved or wish to achieve a voluntary rated license of two stars or higher. ~~higher or that apply to be assessed for a voluntary rated license of two stars or higher.~~

(b) A child care facility is eligible for a voluntary rated license of two through five stars. stars upon application and assessment of compliance with the requirements of this Section.

(c) A one-star rated license shall be issued to a child care facility when compliance with G.S. 110-91 and this Chapter is determined.

~~(e)(d)~~ No requirement in any component of a two-star or higher rating shall be less than the requirements for a one-star rating described in G.S. 110-91 and this Chapter. Prior to issuance of an initial two through five-star rating, all requirements in G.S. 110-91 and this Chapter must be in compliance at the time the program is assessed. The requirements for a ~~voluntary~~ rated license of two stars or higher are in addition to the standards found in G.S. 110-91 and this Chapter.

~~(d)(e)~~ Nothing in this Section precludes or interferes with issuance of an administrative action as allowed by G.S. 110-110, Article 7 and this Chapter.

~~(e) As used in this Section a two component license refers to a license issued based on an evaluation of program standards and education standards.~~

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2802 APPLICATION FOR A ~~VOLUNTARY TWO THROUGH FIVE STAR RATED~~ LICENSE

(a) After a licensed child care center or home has been in operation for a minimum of six consecutive months, the procedures in this Rule apply to request an initial two- through five-star rated license or to request that a rating be changed to a two- through five-star rated license.

(b) The operator shall submit a completed application to the Division for a ~~voluntary two- through five-star~~ rated license on the form provided by the Division.

(c) An operator may apply for a star rating based on the total number of points achieved for each component of the ~~voluntary two- through five-star~~ rated license. In order to achieve a two-through five-star rating, ~~for a two component license~~ the minimum score achieved must be a least four points as follows:

<u>Total Number of Points</u>	<u>Star Rating</u>
<u>4 through 6</u>	<u>Two Stars</u>
<u>7 through 9</u>	<u>Three Stars</u>
<u>10 through 12</u>	<u>Four Stars</u>
<u>13 through 15</u>	<u>Five Stars</u>

TOTAL NUMBER OF POINTS	RATING
4 through 6	Two Stars
7 through 9	Three Stars
10 through 12	Four Stars
13 through 15	Five Stars

(d) Facilities with a four or five-star rated license that are licensed to serve four-year-old children must implement a curriculum as defined in 10A NCAC 09 .0102 with their four year olds. ~~This requirement must be met in any licensed child care facility.~~

(e) A Division representative shall assess the facility requesting a ~~voluntary two- through five-star~~ rated license to determine if all applicable requirements have been met to achieve the score for the requested star rating. The assessment may include a review of Division records and site visits.

(f) The Division shall provide for Infant/Toddler Environment Rating Scale Revised Edition, Early Childhood Environment Rating Scale - Revised Edition, School-Age Care Environment Rating Scale - Revised Edition assessments to be completed, as appropriate for the program, free of charge to operators requesting an initial three or more points for program standards. For centers with a licensed capacity of 3 to 12 children located in a residence, a Family Child Care Rating Scale- Revised Edition assessment shall be completed.

(g) Upon completion of the Division's assessment:

- (1) If the assessment indicates all the applicable requirements to achieve the score for the

requested rating have been met, the Division shall issue the rating.

- (2) If the assessment indicates all the applicable requirements to achieve the score for the requested rating are not met, the Division shall notify the operator of the requirements that were not met and the requested ~~voluntary two-through five-star~~ rating shall not be issued. The operator may:

- (A) ~~Accept~~ accept the rating for which the Division has found the operator to be eligible;
- (B) ~~Withdraw~~ withdraw the request and reapply when the identified requirements to achieve the score for the requested rating have been met; or
- (C) ~~Appeal~~ appeal the denial of the requested rating as provided in G.S. 110-94.

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s.10.7(b).

10A NCAC 09 .2804 ADMINISTRATIVE POLICIES
10A NCAC 09 .2805 OPERATIONAL AND PERSONNEL POLICIES

Authority G.S. 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2806 CAREGIVING ACTIVITIES FOR PRESCHOOL-AGED CHILDREN

- (a) Each center shall comply with the requirements in Rule .0508 of this Chapter for written activity schedules and plans, and in Rule .0509 of this Chapter for general activity requirements.
- (b) Each center providing care to preschool-age children aged ~~two~~ three years old or older shall comply with the requirements for activity areas for preschool-age children in Rule .0510 of this Chapter, except that all five of the activity areas listed in G.S. 110-91(12) shall be available each day and the activities listed in Rule

.0510(6) of this Chapter shall be offered for each group of children at least once per week.

- (c) The requirements for activities for infants and toddlers set forth in Rule .0511 of this Chapter shall apply for children under ~~two~~ three years of age.

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2807 PARENT PARTICIPATION
10A NCAC 09 .2808 NIGHT CARE

Authority G.S. 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2809 ENHANCED SPACE REQUIREMENTS

- (a) There shall be at least 30 square feet inside space per child per the total licensed capacity and ~~100 75~~ 75 square feet outside space ~~per the total licensed capacity~~ for each child using the outdoor learning environment at any one time. Or, there shall be at least 35 square feet inside space per child per the total licensed capacity and ~~100 75~~ 75 square feet outside space per child for at least 50 percent of the total licensed capacity.

- (b) There must be an area which can be arranged for administrative and private conference activities.

Authority G.S. 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2817 ENHANCED PROGRAM STANDARDS FOR A TWO-COMPONENT RATED LICENSE FOR CHILD CARE CENTERS

- (a) ~~This Rule applies to evaluating the program standards for a two-component rated license for child care centers. To achieve one point for program standards, the center shall be in compliance with all applicable requirements in Rules .0513-.0516 of this Chapter.~~

- (b) To achieve two through seven points for program standards, the center shall meet all the applicable requirements in Rule .2806 of this Section and the criteria listed in the following chart:

<u>Point Level</u>	<u>Meets Enhanced Staff/Child Ratio in Rule .2818(b)</u>	<u>Meets Enhanced Staff/Child Ratio in Rule .2818(c)</u>	<u>Meets Enhanced Space in Rule .2809</u>	<u>Environment Rating Scale (ERS) Requirements (as referenced in Rule .2802(f) of this Section)</u>
<u>2 Points</u>	✓ <u>OR</u>		✓	
<u>3 Points</u>	✓ <u>OR</u>		✓ <u>AND</u>	<u>Each classroom has at least a score of 4.0 or higher</u>
<u>4 Points</u>	✓ <u>AND</u>		<u>Center may choose to meet this requirement, AND</u>	<u>Have an average combined score of 4.5, with no one classroom score lower than 4.0 in each classroom evaluated</u>
<u>5 Points</u>	✓ <u>AND</u>		<u>Center may choose to meet this requirement, AND</u>	<u>Have an average combined score of 4.75, with no one classroom score lower than 4.0 in each classroom evaluated</u>
<u>6 Points</u>	✓ <u>AND</u>		✓ <u>AND</u>	<u>Have an average combined score of 5.0, with no one classroom score lower than 4.0 in each classroom evaluated</u>

PROPOSED RULES

<u>7 Points</u>	✓	<u>AND</u>	✓	<u>AND</u>	✓	<u>AND</u>	<u>Have a score of 5.0 in each classroom evaluated</u>
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(b) ~~To achieve two points for program standards, the center shall meet all the applicable requirements in Rules .2804 .2808 of this Section, and either the staff/child ratio requirements in Rule .2818(b) or the space requirements in Rule .2809 of this Section shall be met.~~

(c) ~~To achieve three points for program standards, the center shall meet all the applicable requirements in Rules .2804 .2808 and either the staff/child ratio requirements in Rule .2818(b) or the space requirements in Rule .2809 of this Section shall be met, and have an average score of 4.0 on the appropriate environment rating scale referenced in Rule .2802(e) of this Section in each classroom evaluated.~~

(d) ~~To achieve four points for program standards, the center shall meet all the applicable requirements in Rules .2804 .2808 and .2818(b) of this Section, and have an average combined score of 4.5, with no one classroom score lower than 4.0 on the appropriate environment rating scale referenced in Rule .2802(e) of this Section for all classrooms evaluated.~~

(e) ~~To achieve five points for program standards, the center shall meet all the applicable requirements in Rules .2804 .2808 and .2818(b) of this Section, and have an average combined score of 4.75, with no one classroom score lower than 4.0, on the appropriate environment rating scale referenced in Rule .2802(e) of this Section for all classrooms evaluated.~~

(f) ~~To achieve six points for program standards, the center shall meet all the applicable requirements in Rules .2804 .2809 and .2818(b) of this Section, and have an average combined score of 5.0, with no one classroom score lower than 4.0 on the appropriate environment rating scale referenced in Rule .2802(e) of this Section for all classrooms evaluated.~~

(g) ~~To achieve seven points for program standards, the center shall meet all the applicable requirements in Rules .2804 .2809 and .2818(c) of this Section, and have an average score of 5.0 on the appropriate environment rating scale referenced in Rule .2802(e) of this Section in each classroom evaluated.~~

(h) ~~For centers with a licensed capacity of 3 to 12 children located in a residence, a Family Day Care Rating Scale shall be the rating scale used in Paragraphs (c), (d), (e), (f) and (g) of this Rule.~~

Authority G.S. 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2818 ENHANCED STAFF/CHILD RATIOS FOR A TWO-COMPONENT RATED LICENSE FOR CHILD CARE CENTERS

(a) This Rule applies to evaluating the staff/child ratios and maximum group sizes for a ~~two-component~~ rated license for child care centers.

(b) The center shall comply with the following ~~staff-child~~ staff/child ratios and maximum group sizes.

<u>Age</u>	<u>Ratio Staff/Children</u>	<u>Maximum Group Size</u>
<u>0 to 12 Months</u>	<u>1/5</u>	<u>10</u>
<u>1 to 2 Years</u>	<u>1/6</u>	<u>12</u>
<u>2 to 3 Years</u>	<u>1/9</u>	<u>18</u>
<u>3 to 4 Years</u>	<u>1/10</u>	<u>20</u>
<u>4 to 5 Years</u>	<u>1/13</u>	<u>25</u>
<u>5 to 6 Years</u>	<u>1/15</u>	<u>25</u>
<u>6 Years and Older</u>	<u>1/20</u>	<u>25</u>

AGE	RATIO STAFF/CHILDREN	MAXIMUM GROUP SIZE
0 to 12 Months	1/5	10
1 to 2 Years	1/6	12
2 to 3 Years	1/9	18
3 to 4 Years	1/10	20
4 to 5 Years	1/13	25
5 to 6 Years	1/15	25
6 Years and Older	1/20	25

(c) To earn seven points for program standards, the center shall comply with the following ~~staff-child~~ staff/child ratios and maximum group sizes.

<u>Age</u>	<u>Ratio Staff/Children</u>	<u>Maximum Group Size</u>
<u>0 to 12 Months</u>	<u>¼</u>	<u>8</u>
<u>1 to 2 Years</u>	<u>1/5</u>	<u>10</u>
<u>2 to 3 Years</u>	<u>1/8</u>	<u>16</u>
<u>3 to 4 Years</u>	<u>1/9</u>	<u>18</u>
<u>4 to 5 Years</u>	<u>1/12</u>	<u>24</u>
<u>5 to 6 Years</u>	<u>1/14</u>	<u>25</u>
<u>6 Years and Older</u>	<u>1/19</u>	<u>25</u>

MAXIMUM

AGE	RATIO STAFF/CHILDREN	GROUP SIZE
0 to 12 Months	1/4	8
1 to 2 Years	1/5	10
2 to 3 Years	1/8	16
3 to 4 Years	1/9	18
4 to 5 Years	1/12	24
5 to 6 Years	1/14	25
6 Years and Older	1/19	25

(d) The provisions of rules 10A NCAC 09 .0712(a)(1), (2) .0713(a)(1) through (8), (d), and (e) and .0713(b) through (j) shall apply in evaluating the staff/child ratios and maximum group sizes within this Rule.

(e) The staff/child ratio applicable to a classroom shall be posted in that classroom in an area that parents are able to view at all times.

Authority G.S. 110-88(7); 143B-168.3.

10A NCAC 09 .2819 ENHANCED EDUCATION STANDARDS FOR ON-SITE ADMINISTRATORS FOR A RATED LICENSE FOR CHILD CARE CENTERS

(a) This Rule applies to evaluating the education standards for an on-site administrator for child care centers. The points for education standards are determined by applying this Rule along with Rules .2820, .2821, .2822 and .2823 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained under each Rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, the on-site administrator shall meet the applicable requirements in the following chart:

<u>Point Level</u>	<u>NC Early Childhood Administration Credential or its equivalent</u>	<u>Semester Hours and Type of Work Experience</u>	<u>If providing school-age care,</u>
<u>2 Points</u>	<u>Level I; and</u>	<u>2 years of full-time, verifiable early childhood experience; or</u> <u>1 year of child care administration experience; and</u>	<u>150 hours of verifiable time in a licensed child care program; or</u> <u>300 hours of verifiable time in an unlicensed school-age care or camp setting; or</u> <u>BSAC training.</u>
<u>3 Points</u>	<u>Level I; and</u>	<u>6 hours in early childhood education or child development; and either</u> <u>2 years of full-time, verifiable early childhood experience; or</u> <u>±</u> <u>1 year of child care administration experience; and</u>	<u>300 hours of verifiable time in a licensed child care program; or</u> <u>450 hours of verifiable time in an unlicensed school-age care or camp setting; or</u> <u>BSAC training.</u>
<u>4 Points</u>	<u>Level I; and</u>	<u>18 hours in early childhood education or child development; and 1 year of child care administration experience; or</u> <u>6 hours in early childhood education or child development and 10 years of child care administration experience; and</u>	<u>450 hours of verifiable time in a licensed child care program; or</u> <u>600 hours of verifiable time in an unlicensed school-age care or camp setting; or</u> <u>BSAC training.</u>
<u>5 Points</u>	<u>Level II; and</u>	<u>2 years of full-time, verifiable early childhood experience; and</u>	<u>600 hours of verifiable time in a licensed child care program; or</u>

			<u>900 hours of verifiable time in an unlicensed school-age care or camp setting; or</u> <u>BSAC training or its equivalent.</u>
6 Points	Level II; and	<u>18 hours in early childhood education or child development; and either</u> <u>3 years of full-time verifiable early childhood experience in an early childhood center teaching young children; or</u> <u>3 years of child care administration experience; or</u> <u>3 years of a combination of both types of experience; and</u>	<u>750 hours of verifiable time in a licensed child care program; or</u> <u>1150 hours of verifiable time in an unlicensed school-age care or camp setting; or</u> <u>BSAC training.</u>
7 Points	Level III; and either	<u>4 years of full-time verifiable early childhood experience in an early childhood center teaching young children; or</u> <u>4 years of child care administration experience; or</u> <u>4 years of a combination of both types of experience; and</u>	<u>900 hours of verifiable time in a licensed child care program; or</u> <u>1350 hours of verifiable time in an unlicensed school-age care or camp setting; or</u> <u>BSAC training.</u>

(c) Semester hours in early childhood education or child development shall not include the coursework necessary for the North Carolina Early Childhood Administration Credential (NCECAC).

(d) Completion of school-age experience requirements shall count toward meeting work experience requirements.

(b) To achieve two points, the on-site administrator shall have:

- (1) A Level I North Carolina Early Childhood Administration Credential or its equivalent; and
- (2) Two years of full-time verifiable early childhood work experience, or one year experience in child care administration; and
- (3) If providing school age care, 150 hours of verifiable experience working with school-aged children in a licensed child care program; or 300 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or shall complete the BSAC Training or its equivalent. Completion of these requirements shall count toward meeting experience requirements in Subparagraph (2) of this Paragraph.

(e) To achieve three points, the on-site administrator shall have:

- (1) A Level I North Carolina Early Childhood Administration Credential or its equivalent; and
- (2) Six semester hours in early childhood education or child development (not including North Carolina Early Childhood Administration Credential coursework); and either

(A) Two years of full-time verifiable early childhood work experience; or

(B) One year of experience in child care administration; and

- (3) If providing school age care, 300 hours of verifiable experience working with school-aged children in a licensed child care program; or 450 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or shall have completed the BSAC Training or its equivalent. Completion of these requirements may count toward meeting experience requirements in Subparagraphs (2)(A) and (B) of this Paragraph.

(d) To achieve four points, the on-site administrator shall have:

- (1) A Level I North Carolina Early Childhood Administration Credential or its equivalent; and either

(A) 18 semester hours in early childhood education or child development (not including North Carolina Early Childhood Administration Credential coursework) and one year of experience in child care administration; or

(B) Six semester hours in early childhood education or child development (not including North Carolina Early Childhood Administration Credential

- coursework), and 10 years of experience in child care administration; and
- (2) If providing school age care, 450 hours of verifiable experience working with school aged children in licensed child care program; or 600 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or shall have completed the BSAC Training or its equivalent. Completion of these requirements may count toward meeting experience requirements in Subparagraphs (1)(A) and (B) of this Paragraph.
- (e) To achieve five points, the on site administrator shall have:
- (1) A Level II North Carolina Early Childhood Administration Credential or its equivalent; and
- (2) Two years of full time verifiable early childhood work experience; and
- (3) If providing school age care, 600 hours of verifiable experience working with school aged children in a licensed child care program; or 900 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or shall have completed the BSAC training or its equivalent. Completion of these requirements may count toward meeting experience requirements in Subparagraph (2) of this Paragraph.
- (f) To achieve six points, the on site administrator shall have:
- (1) A Level II North Carolina Early Childhood Administration Credential or its equivalent; and
- (2) 18 semester hours in early childhood education or child development (not including the North Carolina Early Childhood Administration Credential coursework or hours earned during the completion of the A.A.S degree); and either
- (A) Three years of full time verifiable work experience in an early childhood center teaching young children; or
- (B) Three years of administrative experience; or
- (C) Three years of a combination of both; and
- (3) If providing school age care, 750 hours of verifiable experience working with school aged children in a licensed child care program; or 1150 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or shall have completed the BSAC training or its equivalent. Completion of these requirements may count toward meeting experience requirements in

- Subparagraphs (2)(A) and (B) of this Paragraph.
- (g) To achieve seven points, the on site administrator shall:
- (1) Have a Level III North Carolina Early Childhood Administration Credential or its equivalent; and
- (2) Either:
- (A) Four years of full time verifiable work experience in an early childhood center teaching young children; or
- (B) Four years of administrative experience; or
- (C) Four years of a combination of both; and
- (3) If providing school age care, 900 hours of verifiable experience performing administrative duties in a licensed child care program serving school aged children; or 1350 hours of verifiable experience performing administrative duties in an unlicensed school age care or camp setting; or shall have completed the BSAC Training or its equivalent. Completion of these requirements may count toward meeting experience requirements in Subparagraphs (2)(A), (B) and (C) of this Paragraph.
- (h)(e) For centers with a licensed capacity of 3 to 12 children located in a residence, when an individual has responsibility both for administering the child care program and for planning and implementing the daily activities of a group of children, the educational requirements for lead teacher in Rule .2820 of this Section shall apply. All other teachers shall follow the educational requirements for teachers in this Section.
- (i)(f) For centers with a licensed capacity of 200 or more, there shall be a second administrator on-site for a minimum of 20 hours per week who shall have the Level I North Carolina Early Childhood Administration Credential or its equivalent.
- Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3.*
- 10A NCAC 09 .2820 ENHANCED EDUCATION STANDARDS FOR LEAD TEACHERS FOR A RATED LICENSE FOR CHILD CARE CENTERS**
- (a) This Rule applies to evaluating child care centers with regards to all lead teachers. The points for education standards are determined by applying this Rule along with Rules .2819, .2821, .2822 and .2823 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained under each Rule shall be the point used to meet Rule .2802 of this Section.
- (b) To achieve two through seven points for education standards, the lead teachers shall meet the applicable requirements in the following chart:

<u>Point Level</u>	<u>NC Early Childhood Credential or its equivalent</u>	<u>Certification on the NC Early Care and Education Professional Scale</u>	<u>Other Education and Experience Requirements</u>

PROPOSED RULES

<u>2 Points</u>	<u>75 percent of lead teachers; or</u>	<u>75 percent of lead teachers at Level I or higher; and</u>	<u>75 percent of lead teachers have completed or are enrolled in 3 semester hours in early childhood education or child development.</u>
<u>3 Points</u>	<u>All lead teachers; or</u>	<u>All lead teachers at a Level I or higher; and either</u>	<u>75 percent of the lead teachers shall have:</u> <u>(1) completed 3 semester hours in early childhood education and have completed or are enrolled in 3 additional semester hours in early childhood education or child development; or</u> <u>(2) completed 1 year full-time verifiable early childhood work experience; or</u> <u>(3) have a Level II or higher certification on the ECE scale; or</u> <u>(4) Any combination of (1), (2), and (3) of this requirement.</u>
		<u>OR 50 percent of the lead teachers at a Level II or higher.</u>	
<u>4 Points</u>	<u>All lead teachers; or</u>	<u>All lead teachers at a Level I or higher; and either</u>	<u>75 percent of the lead teachers shall have:</u> <u>(1) completed 6 semester hours in early childhood education or childhood development and have completed or are enrolled in 3 additional semester hours in early childhood education; or</u> <u>(2) completed 3 semester hours of early childhood education and have 3 years of full-time verifiable early childhood work experience; or</u> <u>(3) completed 5 years of full-time verifiable early childhood work experience; or</u> <u>(4) Any combination of (1), (2), and (3) of this requirement.</u>
		<u>OR 50 percent of the lead teachers shall have a Level III or higher certification on the ECE scale.</u>	
<u>5 Points</u>	<u>All lead teachers; or</u>	<u>All lead teachers at a Level I or higher; and</u>	<u>75 percent of the lead teachers shall have:</u> <u>(1) completed 9 semester hours in early childhood education or childhood development and have completed or are enrolled in 3 additional semester hours in early childhood education; and have 1 year of full-time verifiable early childhood work experience; or</u> <u>(2) have a Level IV or higher certification on the ECE scale and have 1 year of full-time verifiable early childhood work experience; or</u> <u>(3) Any combination of (1) and (2) of this requirement.</u>
<u>6 Points</u>	<u>All lead teachers; or</u>	<u>All lead teachers at a Level I or higher; and</u>	<u>50 percent of the lead teachers shall have either:</u> <u>(1) An A.A.S. degree in early childhood education or child development or an A.A.S. degree in any major with 12 semester hours in early childhood education or child development and 1 year of full-time verifiable early childhood work experience; or</u>

			<p>(2) <u>Completed 60 semester hours towards a BA/BS degree program with 12 semester hours in early childhood education and 1 year of full-time verifiable early childhood work experience; or</u></p> <p>(3) <u>A Level VI certification on the ECE scale and 1 year of full-time verifiable early childhood work experience; or</u></p> <p>(4) <u>Any combination of (1), (2) and (3) of this requirement.</u></p>
<u>7 Points</u>	<u>All lead teachers; or</u>	<u>All lead teachers at a Level I or higher; and</u>	<p>75 percent of the lead teachers shall have either:</p> <p>(1) <u>An A.A.S. degree in early childhood education or child development or an A.A.S. degree in any major with 12 semester hours in early childhood education or child development and 2 years of full-time verifiable early childhood work experience; or</u></p> <p>(2) <u>A Level VI certification on the ECE scale and 2 years of full-time verifiable early childhood work experience; or</u></p> <p>(3) <u>Any combination of (1) and (2) of this requirement.</u></p>

(c) Semester hours in early childhood education or child development shall not include the coursework necessary for the North Carolina Early Childhood Credential.

(b) To achieve two points, 75 percent of the lead teachers shall:

- (1) Have the North Carolina Early Childhood Credential, its equivalent or a Level I or higher Early Educator Certification on the Early Care and Education Professional Scale (ECE scale); and
- (2) Have completed or enrolled in three semester hours in early childhood education or child development (not including North Carolina Early Childhood Credential coursework).

(c) To achieve three points, all lead teachers shall have the North Carolina Early Childhood Credential, its equivalent or a Level I or higher certification on the ECE scale; and either

- (1) 75 percent of the lead teachers shall have:
 - (A) Completed three semester hours in early childhood education and completed or are enrolled in three additional semester hours in early childhood education or child development (not including North Carolina Early Childhood Credential coursework); or
 - (B) Completed one year full-time verifiable early childhood work experience; or
 - (C) A level II or higher certification on the ECE scale; or
 - (D) Any combination of Parts (A) through (C) of this Subparagraph; or
- (2) 50 percent of the lead teachers shall have a Level II or higher certification on the ECE scale.

(d) To achieve four points, all lead teachers shall have the North Carolina Early Childhood Credential, its equivalent, or Level I or higher certification on the ECE scale; and

- (1) Either 75 percent of the lead teachers shall have:
 - (A) Completed six semester hours in early childhood education or child development (not including the North Carolina Early Childhood Credential coursework), and have completed or are enrolled in three additional semester hours in early childhood education; or
 - (B) Completed three semester hours of early childhood education and have three years of full-time verifiable early childhood work experience; or
 - (C) Five years of full-time verifiable early childhood work experience; or
 - (D) Any combination of Parts (A) through (C) of this Subparagraph; or
- (2) 50 percent of the lead teachers shall have a Level III or higher certification on the ECE scale.

(e) To achieve five points, all lead teachers shall have the North Carolina Early Childhood Credential, its equivalent, or have a Level I or higher certification on the ECE scale and 75 percent of the lead teachers shall have:

- (1) Completed nine semester hours in early childhood education or child development (not including the North Carolina Early Childhood Credential coursework), and have completed or are enrolled in three additional semester hours in early childhood education, and have one year

~~of full time verifiable early childhood work experience; or~~

- ~~(2) A Level IV or higher certification on the ECE scale and have one year of full time verifiable early childhood work experience; or~~
- ~~(3) Any combination of Subparagraphs (1) and (2) of this Paragraph.~~

~~(f) To achieve six points, all lead teachers shall have the North Carolina Early Childhood Credential, its equivalent, or a Level I or higher certification on the ECE scale and 50 percent of the lead teachers shall have either:~~

- ~~(1) An A.A.S degree in early childhood education or child development or an A.A.S degree in any major with 12 semester hours in early childhood education or child development and one year of full time verifiable early childhood work experience; or~~
- ~~(2) Completed 60 semester hours towards a BA/BS degree program with 12 semester hours in early childhood education and one year of full time verifiable early childhood work experience; or~~
- ~~(3) A Level VI certification on the ECE scale and one year of full time verifiable early childhood work experience; or~~
- ~~(4) Any combination of Subparagraphs (1) through (3) of this Paragraph.~~

~~(g) To achieve seven points, all lead teachers shall have the North Carolina Early Childhood Credential, its equivalent, or a Level I~~

~~or higher certification on the ECE scale and 75 percent of the lead teachers shall have either:~~

- ~~(1) An A.A.S. degree in early childhood education or child development or an A.A.S. degree in any major with 12 semester hours in early childhood education or child development and two years of full time verifiable early childhood work experience; or~~
- ~~(2) A Level VI certification on the ECE scale and two years of full time verifiable early childhood work experience; or~~
- ~~(3) Any combination of Subparagraphs (1) and (2) of this Paragraph.~~

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2821 ENHANCED EDUCATION STANDARDS FOR TEACHERS FOR A RATED LICENSE FOR CHILD CARE CENTERS

(a) This Rule applies to evaluating child care centers with regards to all teachers. The points for education standards are determined by applying this Rule along with Rules .2819, .2820, .2822, and .2823 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained under each Rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, teachers counted in staff/child ratios shall meet the applicable requirements in the following chart.

<u>Point Level</u>	<u>NC Early Childhood Credential or its equivalent</u>	<u>Certification on the NC Early Care and Education Professional Scale</u>	<u>Other Education and Experience Requirements</u>
<u>2 Points</u>			50 percent of the teachers shall: (1) <u>Have 1 year of full-time verifiable early childhood work experience; or</u> (2) <u>Be enrolled in 3 semester hours in early childhood education or child development; or</u> (3) <u>Have any combination of (1) and (2) of this requirement.</u>
<u>3 Points</u>			50 percent of the teachers shall have: (1) <u>3 semester hours in early childhood education or child development; or</u> (2) <u>2 years of full-time verifiable early childhood work experience; or</u> (3) <u>Any combination of (1) and (2) of this requirement.</u>
<u>4 Points</u>	<u>50 percent of teachers; or</u>	<u>50 percent of teachers at a Level I or higher.</u>	
<u>5 Points</u>	<u>50 percent of teachers; or</u>	<u>50 percent of teachers at a Level I or higher; and</u>	<u>3 semester hours in early childhood education or child development; or</u>
		<u>50 percent of teachers at a Level II or higher; or</u>	
		<u>Any combination of the two options.</u>	
<u>6 Points</u>	<u>50 percent of teachers; or</u>	<u>50 percent of teachers at a Level I or higher; and either</u>	(1) <u>3 semester hours in early childhood education or child development and 1</u>

			<u>year of full-time verifiable early childhood work experience; or</u> <u>(2) A Level II or higher certification on the ECE scale and 1 year of full-time verifiable early childhood work experience; or</u> <u>(3) Any combination of (1) and (2) of this requirement.</u>
<u>7 Points</u>	<u>50 percent of teachers; or</u>	<u>50 percent of teachers at a Level I or higher; and either</u>	<u>(1) 6 semester hours in early childhood education or child development and 2 years of full-time verifiable early childhood work experience; or</u> <u>(2) A Level III or higher certification on the ECE scale and 2 years of full-time verifiable early childhood work experience; or</u> <u>(3) Any combination of (1) and (2) of this requirement.</u>

(c) Semester hours in early childhood education or child development shall not include the coursework necessary for the North Carolina Early Childhood Credential.

(b) To achieve two points, 50 percent of the teachers counted in staff/child ratios shall:

- (1) Have one year of full-time verifiable early childhood work experience; or
- (2) Be enrolled in three semester hours in early childhood education or child development; or
- (3) Have any combination of Subparagraphs (1) and (2) of this Paragraph.

(c) To achieve three points, 50 percent of the teachers counted in staff/child ratios shall have:

- (1) Three semester hours in early childhood education or child development; or
- (2) Two years of full-time verifiable early childhood work experience; or
- (3) Any combination of Subparagraphs (1) and (2) of this Paragraph.

(d) To achieve four points, 50 percent of the teachers counted in staff/child ratios shall have the North Carolina Early Childhood Credential, its equivalent or have a Level I or higher certification on the ECE scale.

(e) To achieve five points, 50 percent of the teachers counted in staff/child ratios shall have either:

- (1) The North Carolina Early Childhood Credential, its equivalent or have a Level I or higher certification on the ECE scale and three semester hours in early childhood education or child development (not including North Carolina Early Childhood Credential coursework); or
- (2) A Level II or higher certification on the ECE scale; or
- (3) Any combination of Subparagraphs (1) and (2) of this Paragraph.

(f) To achieve six points, 50 percent of the teachers counted in staff/child ratios shall have the North Carolina Early Childhood Credential, its equivalent or a Level I or higher certification on the ECE scale and either:

- (1) Three semester hours in early childhood education or child development (not including North Carolina Early Childhood Credential; and one year of full-time verifiable early childhood work experience; or
- (2) A Level II or higher certification on the ECE scale and one year of full-time early childhood work experience; or
- (3) Any combination of Subparagraphs (1) and (2) of this Paragraph.

(g) To achieve seven points, 50 percent of the teachers counted in staff/child ratios shall have the North Carolina Early Childhood Credential, its equivalent or have a Level I or higher certification on the ECE scale and either:

- (1) Six semester hours in early childhood education or child development (not including North Carolina Early Childhood Credential coursework); and two years of full-time verifiable early childhood work experience; or
- (2) A Level III or higher certification on the ECE scale and two years of full-time verifiable early childhood work experience; or
- (3) Any combination of Subparagraphs (1) and (2) of this Paragraph.

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2822 ENHANCED EDUCATION STANDARDS FOR PROGRAM COORDINATORS FOR A RATED LICENSE FOR CHILD CARE CENTERS

(a) This Rule applies to evaluating child care centers with regards to program coordinators. The points for education standards are determined by applying this Rule along with Rules .2819, .2820, .2821, and .2823 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained under each Rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, the program coordinator shall meet the applicable requirements in Rule .2510(b) of this Chapter and the following chart:

<u>Point Level</u>	<u>Type of Degree</u>	<u>Certification on the NC School Age Professional Scale</u>	<u>Semester Hours of school-age care related coursework</u>	<u>Hours of verifiable experience working with school-aged children in a licensed child care program</u>	<u>Hours of verifiable experience working with school-aged children in an unlicensed school-age care or camp setting</u>
<u>2 Points</u>			<u>Enrolled in 3 additional hours; or</u>	<u>200; or</u>	<u>300.</u>
<u>3 Points</u>		<u>Level I or higher; or</u>	<u>Completed 3 additional hours; or</u>	<u>300; or</u>	<u>450.</u>
<u>4 Points</u>			<u>Completed 3 additional hours; and</u>	<u>200; or</u>	<u>300; or</u>
		<u>Level I or higher; and</u>		<u>200; or</u>	<u>300; or</u>
				<u>450; or</u>	<u>600.</u>
<u>5 Points</u>		<u>Level II or higher; or</u>	<u>Completed 3 additional semester hours and be enrolled in 3 additional semester hours; or</u>	<u>600; or</u>	<u>750.</u>
<u>6 points</u>	<u>BA/BS; and</u>		<u>Completed 3 additional hours; or</u>		
		<u>Level IV or higher; or</u>			
			<u>Completed 6 additional hours and</u>	<u>750; or</u>	<u>900.</u>
<u>7 Points</u>	<u>BA/BS; and</u>		<u>Completed 6 additional hours; and</u>	<u>300; or</u>	<u>450; or</u>
		<u>Level IV or higher; and</u>		<u>300; or</u>	<u>450; or</u>
			<u>Completed 9 additional hours; and</u>	<u>600; or</u>	<u>900; or</u>
			<u>Completed 6 additional hours; and</u>	<u>900; or</u>	<u>1350.</u>

(b) ~~To achieve two points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall:~~

- ~~(1) Be enrolled in three additional semester hours of school age care related coursework; or~~
- ~~(2) Have 200 hours of verifiable experience working with school aged children in a licensed child care program; or~~
- ~~(3) Have 300 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting.~~

(c) ~~To achieve three points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall have:~~

- ~~(1) Completed three additional semester hours of school age care related coursework; or~~
- ~~(2) 300 hours of verifiable experience working with school aged children in a licensed child care program; or~~
- ~~(3) 450 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~

(4) ~~At least a Level I or higher certification on the SA scale.~~

(d) ~~To achieve four points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall have:~~

- ~~(1) Completed three additional semester hours of school age care related coursework and have either 200 hours of verifiable experience working with school aged children in a licensed child care program, or 300 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~
- ~~(2) A Level I or higher certification on the SA scale and have either 200 hours of verifiable experience working with school aged children in a licensed child care program, or 300 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~

- (3) ~~450 hours of verifiable experience working with school aged children in a licensed child care program; or~~
- (4) ~~600 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting.~~

~~(e) To achieve five points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall have:~~

- ~~(1) Completed three additional semester hours of school age care related coursework; and be enrolled in three additional semester hours of school age care related coursework; or~~
- ~~(2) 600 hours of verifiable experience working with school age children in a licensed child care program; or~~
- ~~(3) 750 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~
- ~~(4) A Level II or higher certification on the SA scale.~~

~~(f) To achieve six points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall have:~~

- ~~(1) Completed six additional semester hours of school age care related coursework and either 750 hours of verifiable experience working with school aged children in a licensed child care program or 900 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~
- ~~(2) A BA/BS degree with three additional semester hours of school age care related coursework; or~~
- ~~(3) A Level IV or higher certification on the SA scale.~~

~~(g) To achieve seven points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall have:~~

- ~~(1) Completed six additional semester hours of school age care related coursework and either 900 hours of verifiable experience working with school aged children in a licensed child care program or 1350 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~

- (2) ~~Nine additional semester hours of school age related coursework and either 600 hours of verifiable experience working with school aged children in a licensed child care program or 900 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~

- (3) ~~A BA/BS degree or higher with six additional semester hours of school age related coursework and either 300 hours of verifiable experience working with school aged children in a licensed school age care program; or 450 hours of working with school aged children in an unlicensed school age care or camp setting; or~~

- (4) ~~A Level IV or higher certification on the SA scale and either 300 hours of verifiable experience working with school aged children in a licensed school age care program or 450 hours of working with school aged children in an unlicensed school age care or camp setting.~~

~~(h)(c)~~ For centers providing school-age care with 200 or more school-aged children enrolled, there shall be two program coordinators on site, one of whom shall not have concurrent group leader responsibilities. The additional program coordinator shall have completed all the applicable staff requirements in Rule .2510(b) of this Chapter.

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2823 ENHANCED EDUCATION STANDARDS FOR GROUP LEADERS AND ASSISTANT GROUP LEADERS FOR A RATED LICENSE FOR CHILD CARE CENTERS AND FOR CENTERS THAT PROVIDE CARE ONLY TO SCHOOL-AGE CHILDREN

(a) This Rule applies to evaluating child care centers with regards to group leaders and assistant group leaders. The points for education standards are determined by applying this Rule along with Rules .2819, .2820, 2821, and ~~.2822~~ .2822, .2824, and .2825 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained under each Rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, all group leaders and assistant group leaders shall meet the applicable requirements in the following chart.

<u>Point Level</u>	<u>Age of Assistant Group Leaders</u>	<u>BSAC</u>	<u>Semester hours of school-age care related coursework</u>	<u>Hours of verifiable experience working with school-aged children in a licensed child care program</u>	<u>Hours of verifiable experience working with school-aged children in an unlicensed school-age care or camp setting</u>
<u>2 Points</u>		<u>All group leaders.</u>			
<u>3 Points</u>		<u>All group leaders; and</u>	<u>25 percent of group leaders enrolled in or</u>		

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			<u>completed 2 additional hours.</u>		
<u>4 Points</u>	<u>All at least 16 years of age; and</u>	<u>All group leaders; and</u>	<u>25 percent of group leaders completed 2 additional hours; or</u>	<u>100; or</u>	<u>150.</u>
<u>5 Points</u>		<u>All group leaders; and</u>	<u>50 percent of group leaders completed 2 additional hours; or</u>	<u>300; or</u>	<u>450; and</u>
	<u>All at least 16 years of age; and</u>	<u>All assistant group leaders; or</u>		<u>250; or</u>	<u>400.</u>
<u>6 points</u>		<u>All group leaders; and</u>	<u>50 percent of group leaders completed 2 hours and completed or be enrolled in 2 additional hours; or</u>	<u>600; or</u>	<u>900; and</u>
	<u>All at least 17 years of age; and</u>	<u>All assistant group leaders; or</u>		<u>250; or</u>	<u>400.</u>
<u>7 Points</u>	<u>All at least 18 years of age; and</u>	<u>All group leaders and assistant group leaders; and</u>	<u>75 percent of group leaders completed 2 hours and completed or be enrolled in 2 additional hours; or</u>	<u>600; or</u>	<u>900.</u>

(b) To achieve two points, all group leaders shall have completed the BSAC training or its equivalent.

(c) To achieve three points, all group leaders shall have completed the BSAC training or its equivalent, and 25 percent of the group leaders shall be enrolled in or have completed two semester hours of school age care related coursework.

(d) To achieve four points, all assistant group leaders shall be at least 16 years of age and all group leaders shall have completed the BSAC training or its equivalent, and 25 percent of the group leaders shall have either:

- (1) Completed two semester hours of school age care related coursework; or
- (2) 100 hours of verifiable experience working with school aged children in a licensed child care program; or
- (3) 150 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or
- (4) Any combination of Subparagraphs (1) through (3) of this Paragraph.

(e) To achieve five points, all group leaders shall have completed the BSAC training or its equivalent, and

- (1) 50 percent of the group leaders shall have either:
 - (A) Completed two semester hours of school age care related coursework; or
 - (B) 300 hours of verifiable experience working with school aged children in a licensed child care program; or
 - (C) 450 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or
 - (D) Any combination of Subparagraphs (A) through (C) of this Paragraph; and
- (2) All assistant group leaders shall be at least 16 years of age and shall have either:
 - (A) Completed the BSAC training or its equivalent; or
 - (B) 250 hours of verifiable experience working with school aged children in a licensed child care program; or

- (C) ~~400 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~
- (D) ~~Any combination of Subparagraphs (A) through (C) of this Paragraph.~~
- (f) ~~To achieve six points, all group leaders shall have completed the BSAC training or its equivalent, and~~
- (1) ~~50 percent of group leaders shall have:~~
- (A) ~~Completed two semester hours of school age care related coursework and have completed or be enrolled in two additional semester hours of school age related coursework; or~~
- (B) ~~600 hours of verifiable experience working with school aged children in a licensed child care program; or~~
- (C) ~~900 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~
- (D) ~~Any combination of Subparagraphs (A) through (C) of this Paragraph; and~~
- (2) ~~All assistant group leaders shall be 17 years of age and shall have either;~~
- (A) ~~Completed the BSAC training or its equivalent; or~~
- (B) ~~250 hours of verifiable experience working with school aged children in a licensed child care program; or~~
- (C) ~~400 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~
- (D) ~~Any combination of Subparagraphs (A) through (C) of this Paragraph.~~

~~(g) To achieve seven points, all assistant group leaders shall be 18 years of age and shall have completed the BSAC training or its equivalent and all group leaders shall have completed the BSAC training or its equivalent, and 75 percent of the group leaders shall have:~~

- (1) ~~Completed two semester hours of school age care related coursework and have completed, or are enrolled in two additional semester hours of school age related coursework; or~~
- (2) ~~600 hours of verifiable experience working with school aged children in a licensed child care program; or~~
- (3) ~~900 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~
- (4) ~~Any combination of Subparagraphs (1) through (3) of this Paragraph.~~

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2824 ENHANCED EDUCATION STANDARDS FOR A RATED LICENSE FOR ADMINISTRATORS FOR CENTERS THAT PROVIDE CARE ONLY TO SCHOOL-AGED SCHOOL-AGE CHILDREN

(a) This Rule applies to evaluating the education standards for administrators for centers that provide care only to school-aged school-age children. The points for education standards are determined by applying this Rule along with Rules .2825 and .2826 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained under each rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, the administrator of a school-age only program shall meet the applicable requirements in the following chart.

<u>Point Level</u>	<u>NC Early Childhood Administration Credential, its equivalent,</u>	<u>Hours of verifiable experience performing administrative duties in a licensed child care program</u>	<u>Hours of verifiable experience performing administrative duties in an unlicensed school-age care or camp setting</u>
<u>2 Points</u>	<u>Level I or have enrolled in coursework as required in G.S. 110-91(8); and</u>	<u>1600.</u>	
<u>3 Points</u>	<u>Level I; and either</u>	<u>300; or</u>	<u>450.</u>
<u>4 Points</u>	<u>Level I; and either</u>	<u>450; or</u>	<u>600.</u>
<u>5 Points</u>	<u>Level II; and either</u>	<u>600; or</u>	<u>750.</u>
<u>6 Points</u>	<u>Level II; and either</u>	<u>750; or</u>	<u>1150.</u>
<u>7 Points</u>	<u>Level III; and either</u>	<u>900; or</u>	<u>1350.</u>

~~(b) To achieve two points, the administrator shall have:~~

- (1) ~~A Level I North Carolina Early Childhood Administration Credential or its equivalent or~~

- have enrolled in coursework as required in G.S. 110-91(8); and
- (2) 1600 hours of verifiable experience performing administrative duties in a licensed school-aged program.
- (c) To achieve three points, the administrator shall have:
- (1) A Level I North Carolina Early Childhood Administration Credential or its equivalent; and
- (2) Either:
- (A) 300 additional hours of verifiable experience performing administrative duties in a licensed child care program; or
- (B) 450 additional hours of verifiable experience performing administrative duties in an unlicensed school-aged care or camp setting.
- (d) To achieve four points, the administrator shall have:
- (1) A Level I North Carolina Early Childhood Administration Credential or its equivalent; and
- (2) Either:
- (A) 450 additional hours of verifiable experience performing administrative duties in a licensed child care program; or
- (B) 600 additional hours of verifiable experience performing administrative duties in an unlicensed school-age care or camp setting.
- (e) To achieve five points, the administrator shall have:
- (1) A Level II North Carolina Early Childhood Administration Credential or its equivalent; and
- (2) Either:
- (A) 600 additional hours of verifiable experience performing administrative duties in a licensed child care program serving school-aged children; or
- (B) 750 additional hours of verifiable experience performing administrative duties in an unlicensed school-aged care or camp setting.
- (f) To achieve six points, the administrator shall have:
- (1) A Level II North Carolina Early Childhood Administration Credential or its equivalent; and

- (2) Either:
- (A) 750 additional hours of verifiable experience performing administrative duties in a licensed child care program serving school-aged children; or
- (B) 1150 additional hours of verifiable experience performing administrative duties in an unlicensed school-aged care or camp setting.
- (g) To achieve seven points, the administrator shall have:
- (1) A Level III North Carolina Early Childhood Administration Credential or its equivalent; and
- (2) Either:
- (A) 900 additional hours of verifiable experience performing administrative duties in a licensed child care program serving school-aged children; or
- (B) 1350 additional hours of verifiable experience performing administrative duties in an unlicensed school-aged care or camp setting.
- (h)(c) As used in this Rule, the definition of the term "experience working with school-aged children" in Rule .2510(h) of this Chapter shall apply.

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2825 ENHANCED EDUCATION STANDARDS FOR PROGRAM COORDINATORS FOR A RATED LICENSE FOR CENTERS THAT PROVIDE CARE ONLY TO SCHOOL-AGED SCHOOL-AGE CHILDREN

- (a) This Rule applies to evaluating the education standards for program coordinators for centers that provide care only to school-aged school-age children. The points for education standards are determined by applying this Rule along with Rules .2824 and .2826 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained under each Rule shall be the point used to meet Rule .2802 of this Section.
- (b) To achieve two through seven points for education standards, the program coordinator shall meet the applicable requirements in Rule .2510(b) of this Chapter and the following chart.

<u>Point Level</u>	<u>Type of Degree</u>	<u>Certification on the NC School Age Professional Certification Scale</u>	<u>Semester Hours of school-age care related coursework</u>	<u>Hours of verifiable experience working with school-age children in a licensed child care program</u>	<u>Hours of verifiable experience working with school-age children in an unlicensed school-age care or camp setting</u>
<u>2 Points</u>			<u>Enrolled in 3 additional hours; or</u>	<u>200; or</u>	<u>300.</u>
<u>3 Points</u>		<u>Level I or higher; or</u>	<u>Completed 3 additional hours; or</u>	<u>300; or</u>	<u>450.</u>
<u>4 Points</u>			<u>Completed 3 additional hours; and</u>	<u>200; or</u>	<u>300; or</u>

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		<u>Level I or higher; and</u>		<u>200; or</u>	<u>300; or</u>
				<u>450; or</u>	<u>600.</u>
<u>5 Points</u>		<u>Level II or higher; or</u>	<u>Completed 3 additional semester hours and be enrolled in 3 additional semester hours; or</u>	<u>600; or</u>	<u>750.</u>
<u>6 points</u>				<u>750; or</u>	<u>900; and</u>
			<u>Completed 6 additional hours; or</u>		
	<u>BA/BS; and</u>		<u>Completed 3 additional hours; or</u>		
		<u>Level III or higher.</u>			
<u>7 Points</u>			<u>Completed 6 additional hours; and</u>	<u>900; or</u>	<u>1350; or</u>
			<u>Completed 9 additional hours; and</u>	<u>600; or</u>	<u>900; or</u>
	<u>BA/BS; and</u>		<u>Completed 6 additional hours; and</u>	<u>300; or</u>	<u>450; or</u>
		<u>Level IV or higher; and</u>		<u>300; or</u>	<u>450; or</u>

~~(b) To achieve two points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall:~~

- ~~(1) Be enrolled in three additional semester hours of school age care related coursework; or~~
- ~~(2) Have 200 hours of verifiable experience working with school aged children in a licensed child care program; or~~
- ~~(3) Have 300 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting.~~

~~(c) To achieve three points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall have:~~

- ~~(1) Completed three additional semester hours of school age care related coursework; or~~
- ~~(2) 300 hours of verifiable experience working with school aged children in a licensed child care program; or~~
- ~~(3) 450 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~
- ~~(4) A Level I certification or higher on the SA scale.~~

~~(d) To achieve four points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall have:~~

- ~~(1) Completed three additional semester hours of school age care related coursework and 200 hours of verifiable experience working with school aged children in a licensed child care program; or~~
- ~~(2) 450 hours of verifiable experience working with school aged children in a licensed child care program; or~~

~~(3) 600 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting; or~~

~~(4) A Level I certification or higher on the SA scale, and either;~~

- ~~(A) 200 hours of verifiable experience working with school aged children in a licensed child care program; or~~
- ~~(B) 300 hours of verifiable experience working with school aged children in an unlicensed school age care or camp setting.~~

~~(e) To achieve five points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall have:~~

- ~~(1) Completed three additional semester hours of school age care related coursework and is enrolled in three additional semester hours of school aged care related coursework; or~~
- ~~(2) 600 hours of verifiable experience working with school aged children in a licensed child care program; or~~
- ~~(3) 750 hours of verifiable experience working with school aged children in an unlicensed school aged care or camp setting; or~~
- ~~(4) A Level II certification or higher on the SA scale.~~

~~(f) To achieve six points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall have:~~

- ~~(1) 750 hours of verifiable experience working with school aged children in a licensed child care program; or 900 hours of verifiable experience working with school aged children~~

- (2) ~~in an unlicensed school aged care or camp setting; and~~
~~Either:~~
 (A) ~~Completed six additional semester hours of school aged care related coursework; or~~
 (B) ~~Shall have a BA/BS degree with three additional semester hours of school aged care related coursework; or~~
 (C) ~~Level III certification or higher on the SA scale.~~

~~(g) To achieve seven points, the program coordinator shall have completed all the applicable requirements in Rule .2510(b) of this Chapter and shall have:~~

- ~~(1) Completed six additional semester hours of school aged care related coursework and either:~~
~~(A) 900 hours of verifiable experience working with school aged children in a licensed child care program; or~~
~~(B) 1350 hours of verifiable experience working with school aged children in an unlicensed school aged care or camp setting; or~~
 (2) ~~Completed nine additional semester hours of school aged care related coursework and either:~~
~~(A) 600 hours of verifiable experience working with school aged children in a licensed child care program; or~~
~~(B) 900 hours of verifiable experience working with school aged children in an unlicensed school aged care or camp setting; or~~
 (3) ~~A BA/BS degree or higher with six additional semester hours of school aged related coursework and either:~~
~~(A) 300 hours of verifiable experience working with school aged children in a licensed school aged care program; or~~

- ~~(B) 450 hours of working with school aged children in an unlicensed school aged care or camp setting; or~~
 (4) ~~A Level IV certification or higher on the SA scale and either:~~
~~(A) 300 hours of verifiable experience working with school aged children in a licensed school aged care program; or~~
~~(B) 450 hours of working with school aged children in an unlicensed school aged care or camp setting.~~

~~(h)(c)~~ As used in this Rule, the definition of the term "experience working with school aged school-age children" in Rule .2510(h) of this Chapter shall apply.

~~(i)(d)~~ For programs with a licensed capacity of 200 or more school aged school-age children, there shall be two program coordinators on site, one of whom shall not have concurrent group leader responsibilities. The additional program coordinator shall have completed the applicable staff requirements in Rule .2510(b) of this Chapter.

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2826 EDUCATION STANDARDS FOR GROUP LEADERS AND ASSISTANT GROUP LEADERS FOR A RATED LICENSE FOR CENTERS THAT PROVIDE CARE ONLY TO SCHOOL-AGED CHILDREN

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2827 ENHANCED EDUCATION STANDARDS FOR OPERATORS FOR A RATED LICENSE FOR FAMILY CHILD CARE HOMES

(a) This Rule applies to evaluating family child care homes with regards to the operator.

(b) To achieve two through seven points for education standards, the operator shall meet the applicable requirements in the following chart:

<u>Point Level</u>	<u>Degree</u>	<u>NC Family Child Care Credential or its equivalent</u>	<u>Certification on the NC Early Care and Education Professional Scale</u>	<u>Semester Hours</u>	<u>Verifiable Early Childhood Work Experience</u>	<u>Additional Clock Hours of On-going Training</u>
<u>2 Points</u>				<u>4 hours in early childhood education or child development; or</u>	<u>5 years; and</u>	<u>8 annually.</u>
<u>3 Points</u>		<u>✓ ;</u> <u>or</u>	<u>Level I or higher.</u>			
<u>4 Points</u>			<u>Level II or higher; or</u>			

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		✓ ; or	<u>Level I or higher; and</u>	<u>6 hours in early childhood education or child development.</u>		
<u>5 Points</u>			<u>Level IV or higher; and</u>		<u>1 year; or</u>	
		✓ ; or	<u>Level I or higher; and</u>	<u>12 hours in early childhood education or child development and either 2 of the 12 hours shall include child care administration; or</u>	<u>1 year.</u>	
<u>6 Points</u>			<u>Level VI or higher; and</u>		<u>1 year; or</u>	
		✓ ; or	<u>Level I or higher; and</u>	<u>18 hours in early childhood education or child development and either 5 of the 18 hours shall include child care administration; or</u>	<u>2 years.</u>	
<u>7 Points</u>	<u>A.A.S. in any major; and</u>			<u>A minimum of 12 hours in early childhood education or child development; and</u>	<u>2 years; or</u>	
	<u>A.A.S. degree in early childhood education or child development; and</u>				<u>18 months; or</u>	
			<u>A Level VI; and</u>		<u>2 years.</u>	

(c) Semester hours in early childhood education or child development shall not include the coursework necessary for the North Carolina Family Child Care Credential.

(b) To achieve two points, the operator shall have completed:

- (1) Four semester credit hours in early childhood education or child development (not including the North Carolina Family Child Care Credential coursework); or

(2) Five years of verifiable early childhood work experience and eight additional clock hours annually of in service training.

(c) To achieve three points, the operator shall have completed the North Carolina Family Child Care Credential, its equivalent or a Level I or higher certification on the ECE scale.

(d) To achieve four points, the operator shall have completed a Level II or higher certification on the ECE scale; or

- (1) ~~Have six semester credit hours in early childhood education or child development (not including the North Carolina Family Child Care Credential coursework); and~~
- (2) ~~Have the North Carolina Family Child Care Credential, its equivalent, or a Level I or higher certification on the ECE scale.~~
- (e) ~~To achieve five points, the operator shall have completed a Level IV certification on the ECE scale and have one year verifiable early childhood work experience; or have~~
 - (1) ~~The North Carolina Family Child Care Credential, its equivalent, or a Level I or higher certification on the ECE scale; and~~
 - (2) ~~12 semester credit hours in early childhood education or child development (not including the North Carolina Family Child Care Credential coursework); and~~
 - (3) ~~Either:~~
 - (A) ~~Two of 12 semester hours in early childhood education in child care administration; or~~
 - (B) ~~One year of verifiable early childhood work experience.~~
- (f) ~~To achieve six points, the operator shall have completed a Level VI certification on the ECE scale and have one year verifiable childhood work experience; or have~~
 - (1) ~~The North Carolina Family Child Care Credential, its equivalent, or a Level I or higher certification on the ECE scale; and~~
 - (2) ~~18 semester credit hours in early childhood education or child development (not including the North Carolina Family Child Care Credential coursework); and~~

- (3) ~~Either:~~
 - (A) ~~Five of the 18 semester hours in early childhood education are in child care administration; or~~
 - (B) ~~Two years of verifiable early childhood work experience.~~
- (g) ~~To achieve seven points, the operator shall have completed:~~
 - (1) ~~An A.A.S. degree in any major with a minimum of 12 semester credit hours in early childhood education/child development coursework and two years of full time verifiable early childhood work experience; or~~
 - (2) ~~An A.A.S. in early childhood education/child development and 18 months of full time verifiable early childhood work experience; or~~
 - (3) ~~A Level VI certification on the ECE scale and two years of experience.~~

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3.

**10A NCAC 09 .2828 ENHANCED PROGRAM
STANDARDS FOR A RATED LICENSE FOR FAMILY
CHILD CARE HOMES**

- (a) This Rule applies to evaluating the program standards for a ~~two component~~ rated license for family child care homes.
- (b) ~~To achieve two points for program standards, the operator shall have written operational policies and procedures that include information about meal and snack practices, daily activities, parent involvement, health and safety practices, infection control/ill child exclusion/inclusion, and business practice. To achieve two through seven points for program standards, the operator shall meet the criteria listed in the following chart:~~

Point Level	Criteria
<u>2 points</u>	<u>Operator provides documentation of self-study and self-assessment using the Family Child Care Rating Scale over a 3-month time period. Documentation such as an ERS book with score sheets, self-assessments and program adjustments shall be reviewed by the Division as part of the rated license assessment.</u>
<u>3 points</u>	<u>Have a score of 4.0 or higher on the Family Child Care Rating Scale</u>
<u>4 points</u>	<u>Have a score of 4.25 or higher on the Family Child Care Rating Scale</u>
<u>5 points</u>	<u>Have a score of 4.5 or higher on the Family Child Care Rating Scale</u>
<u>6 points</u>	<u>Have a score of 4.75 or higher on the Family Child Care Rating Scale AND of the five preschoolers allowed to be enrolled, no more than four children shall be under one year of age</u>
<u>7 points</u>	<u>Have a score of 5.0 or higher on the Family Child Care Rating Scale AND of the five preschoolers allowed to be enrolled, no more than three children shall be under one year of age</u>

- (e) ~~To achieve three points for program standards, the operator shall:~~
 - (1) ~~Have written operational policies and procedures that include all information listed in Paragraph (a) of this Rule.~~
 - (2) ~~Have an average score of 4.0 or higher on the Family Day Care Rating Scale.~~
- (d) ~~To achieve four points for program standards, the operator shall:~~

- (1) ~~Have written operational policies and procedures that include all information listed in Paragraph (a) of this Rule.~~
- (2) ~~Have an average score of 4.25 or higher on the Family Day Care Rating Scale.~~
- (e) ~~To achieve five points for program standards, the operator shall:~~
 - (1) ~~Have written operational policies and procedures that include all information listed in Paragraph (a) of this Rule.~~

- (2) Have an average score of 4.5 or higher on the Family Day Care Rating Scale.
- ~~(f) To achieve six points for program standards, the operator shall:~~
- ~~(1) Have written operational policies and procedures that include all information listed in Paragraph (a) of this Rule;~~
 - ~~(2) Have an average score of 4.75 or higher on the Family Day Care Rating Scale; and~~
 - ~~(3) Of the five preschoolers allowed to be enrolled, no more than four children shall be under one year of age.~~
- ~~(g) To achieve seven points for program standards, the operator shall:~~
- ~~(1) Have written operational policies and procedures that include all information listed in Paragraph (a) of this Rule;~~
 - ~~(2) Have an average score of 5.0 or higher on the Family Day Care Rating Scale; and~~
 - ~~(3) Of the five preschoolers allowed to be enrolled, no more than three children shall be under one year of age.~~

Authority G.S. 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2829 QUALITY POINT OPTIONS

Operators may earn one additional quality point toward a voluntary rated license as described in Rule .2802 of this Section as follows:

- (1) Education options:
 - (a) ~~Completing additional education coursework as follows:~~
 - ~~(i) An Infant and Toddler Certificate, by 75 percent of infant and toddler teachers;~~
 - ~~(ii) An A.A.S. or higher in early childhood education or child development by 75 percent of teachers;~~
 - ~~(iii) A BA or BS or higher in early childhood education or child development by 75 percent of lead teachers;~~
 - ~~(iv) An A.A.S. or higher in early childhood education or child development by all lead teachers;~~

- ~~(v) A North Carolina School Age Care Credential or have completed six semester hours in school-age coursework by 75 percent of group leaders; or~~
- ~~(vi) An Infant and Toddler Certificate or has a BA or BS or higher in early childhood education or child development by a family child care home provider;~~
- ~~(b) Completing 20 additional annual in-service training hours for full time lead teachers and teachers, and staff working part time completing additional hours based on the chart in Rule .0707(e) of this Chapter;~~
- ~~(c) Completing 20 annual in service training hours for family child care home providers in addition to those required by Rule .1705(b)(5) of this Chapter;~~
- ~~(d) 75 percent of lead teachers and teachers having at least 10 years of documented and confirmed by the Division early childhood work experience;~~
- ~~(e) All lead teachers and teachers having at least five years of documented and confirmed by the Division of early childhood work experience employed by no more than two different employers;~~
- ~~(f) Having a combined turnover rate of 20 percent or less for the administrator, program coordinator, lead teachers, teachers and group leader positions over the last 12 months if the program has earned at least four points in education;~~
- ~~(g) In a stand alone school age program, 75 percent of group leaders having at least five years verifiable school age work experience employed in no more than two different school age settings; or~~

<u>75 percent of infant/toddler teachers have obtained an Infant and Toddler Certificate;</u>	<u>OR</u>
<u>75 percent of teachers have an AAA or higher in early childhood education or child development;</u>	<u>OR</u>
<u>75 percent of lead teachers have a BA/BS or higher in early childhood education or child development;</u>	<u>OR</u>
<u>All lead teachers have an AAS or higher in early childhood education or child development;</u>	<u>OR</u>
<u>75 percent of group leaders have a North Carolina School-Age Care Credential or 6 semester hours in school-age coursework;</u>	<u>OR</u>
<u>A Family Child Care Home operator has an Infant and Toddler Certificate or a BA/BS or higher in early childhood education or child development;</u>	<u>OR</u>
<u>Completing 20 additional annual on-going training hours for full-time lead teachers and teachers, and staff working part-time;</u>	<u>OR</u>

<u>Completing 20 additional annual on-going training hours for family child care home operators;</u>	<u>OR</u>
<u>75 percent of lead teachers and teachers have at least 10 years of documented early childhood work experience that can be verified by the Division;</u>	<u>OR</u>
<u>All lead teachers and teachers have at least 5 years of documented early childhood work experience that can be verified by the Division and have been employed by no more than 2 different employers;</u>	<u>OR</u>
<u>When the program has earned at least 4 points in education and the program has a combined turnover rate of 20 percent or less for the administrator, program coordinator, lead teacher, teacher, and group leader positions over the last 12 months;</u>	<u>OR</u>
<u>In a stand-alone school age program, 75 percent of group leaders have at least 5 years of documented school-age work experience that can be verified by the Division and have been employed by no more than 2 different employers.</u>	

- (2) Programmatic options:
- | | |
|--|---|
| <p>(a) Using a curriculum as defined in Rule .0102(7) of this Chapter. This programmatic option is not available to facilities that are required to use an approved curriculum in accordance with Rule .2802(d) of this Section;</p> <p>(b) Having group sizes decreased by at least one child per age group from the seven point level as described in Rule .2818(e) of this Section;</p> <p>(c) Having staff/child ratios decreased by at least one child per age group from the seven point level as described in Rule .2818(e) of this Section;</p> <p>(d) Meeting at least two of the following three programs standards:</p> <p style="padding-left: 20px;">(i) Having enhanced policies which include the following topics: field trip policy, staff development plan, medication administration, enhanced discipline policy, and health rules for attendance;</p> <p style="padding-left: 20px;">(ii) Having a staff benefits package that offers at least four of the following six benefits: paid leave for professional</p> | <p>(iii) development, paid planning time, vacation, sick time, retirement or health insurance; or</p> <p>Having evidence of an infrastructure of parent involvement that includes at least two of the following: parent newsletters offered at least quarterly, parent advisory board, periodic conferences for all children, or parent information meetings offered at least quarterly;</p> <p>(e) Completing a 30 hour or longer business training course by a family child care home provider;</p> <p>(f) Completing a business training course and a wage and hour training by the center administrator that is at least 30 hours total;</p> <p>(g) Restricting enrollment to four preschool children in a family child care home; or</p> <p>(h) Reducing infant capacity by at least one child from the seven point level for a family child care home as described in Rule .2828(g)(3) of this Section.</p> |
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<u>Using a curriculum as defined in Rule .0102(10) of this Chapter. This programmatic option is not available to facilities that are required to use an approved curriculum in accordance with Rule .2802(d) of this Section;</u>	<u>OR</u>
<u>Having reduced group sizes decreased by at least one child per age group from the seven point level as described in Rule .2818(c) of this Section;</u>	<u>OR</u>
<u>Having staff/child ratios decreased by at least one child per age group from the seven point level as described in Rule .2818(c) of this Section;</u>	<u>OR</u>
<u>Meeting the following program standards:</u>	<u>OR</u>
(1) <u>Having a staff benefits package that offers at least four of the following benefits: paid leave for professional development, paid planning time, vacation, sick time, retirement, or health insurance; and</u>	
(2) <u>Having evidence of an infrastructure of parent involvement that includes at least two of the following: parent newsletters offered at least quarterly, parent advisory board, periodic conferences for all children, or parent information meetings offered at least quarterly</u>	
<u>A Family Child Care Home operator has completed a 30 hour or longer business training course;</u>	<u>OR</u>
<u>A center administrator has completed a business training course and a wage and hour training course that is at least 30 hours of total training time;</u>	<u>OR</u>

<u>Restricting enrollment to four preschool children in a Family Child Care Home;</u>	OR
<u>Reducing infant capacity by at least one child from the seven point level for a Family Child Care Home as described in Rule .2828(g)(3) of this Section.</u>	

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s. 10.7(b).

10A NCAC 09 .2830 MAINTAINING THE STAR RATING

(a) A representative of the Division may make announced or unannounced visits to facilities to assess on-going compliance with the requirements of a star rating after it has been issued. When the Division representative documents violations with the standards that determine a rating, the representative may take one or more of the following actions:

- (1) ~~Advise~~ advise the operator to submit written verification that the violation(s) have been ~~corrected~~ corrected;
- (2) ~~Return~~ return to the facility for an unannounced visit at a later date to determine if compliance has been ~~achieved~~ achieved;
- (3) ~~Recommend~~ recommend an Environmental Rating Scale assessment be ~~conducted~~ conducted;
- (4) ~~Recommend~~ recommend a complete reassessment of requirements of the star rating issued to the ~~facility~~ facility;
- (5) ~~Recommend~~ recommend that the star rating be ~~reduced~~ reduced; or
- (6) ~~Recommend~~ recommend administrative action in accordance with G.S. 440 ~~110~~ 110, Article 7 and this ~~Subchapter~~ Chapter.

(b) If changes unrelated to employment occur at a facility which ~~result~~ results in the operator not complying with the standards in this Section for the star rating issued, the operator shall correct the noncompliance within 30 days. If the operator does not correct the noncompliance within 30 days, the operator shall notify the Division. Based upon the information obtained, the Division may take any of the actions described in Paragraph (a) of this Rule.

(c) If employment related changes occur at a facility which results in the operator not complying with the standards in the Section for the star rating issued, the operator shall correct the noncompliance within 90 days. If the operator does not correct the noncompliance within 90 days, the operator shall notify the Division. Based upon the information obtained, the Division may take any of the actions described in Paragraph (a) of this Rule.

~~(e)~~(d) A complete assessment of requirements for a voluntary rated license of two stars or higher shall be conducted at least once every three years. The Division shall provide for one evaluation of program standards using the environment rating scales referenced in Rule .2802(e) free of charge once every three years when reassessing the ratings of operators with three to five points for program standards.

Authority G.S. 110-88(7); 110-90(4); 143B-168.3.

10A NCAC 09 .2831 HOW AN OPERATOR MAY REQUEST OR APPEAL A CHANGE IN RATING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .4000 - CHILD CARE TRAINERS

10A NCAC 09 .4001 ADMINISTRATIVE PENALTIES FOR CHILD CARE TRAINERS

(a) For purposes of this Rule, "in-service trainer" and "training agent" means an individual, agency, or organization that submits training content to be approved for the award of contact hour credits to meet child care staff training requirements. When an approved in-service trainer or training agent fails to comply with requirements specified in Rules 10A NCAC 09 .1105 and .1715(h), the Division shall issue an administrative penalty.

(b) A written warning letter shall be issued when an in-service trainer or training agent fails to submit accurate training documentation. The written warning letter shall describe the reasons for its issuance including identification of the specific statutes or rules violated. The letter shall describe actions necessary for the operator to be in compliance and specify a time period for compliance to be achieved. The Division shall determine the need for corrective action on an individual basis.

(c) A Notice of Termination of Trainer Approval shall be issued to an approved in-service trainer or training agent when falsification of training documentation by an in-service trainer or training agent occurs. The Notice of Termination shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated.

(d) A Denial of Trainer Approval shall be issued to a person requesting to be an approved in-service trainer or training agent when the Division determines that:

- (1) an in-service trainer or training agent has previously received an administrative penalty from the Division; or
- (2) if the Division has received information regarding inaccuracy of training by the in-service trainer or training agent and the Division determines that the inaccuracy would impact the care provided to children by the child care providers receiving the training.

The Denial of Trainer Approval shall describe the reasons for its issuance including identification of the specific statutes or rules violated.

(e) Failure to comply with the Notice of Termination or Denial may result in civil action in accordance with G.S. 110-103.1 and a criminal penalty in accordance with G.S. 110-103. The Secretary may also seek injunctive relief in accordance with G.S. 110-104.

Authority G.S. 110-88; 110-90; 110-91(8),(11); 143B-168.3.

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Department of Health and Human Services/Secretary intends to readopt with substantive

changes the rules cited as 10A NCAC 14J .0101-.0103, .0201, .0203, .0204, .0301-.0303, .0402-.0405, .0501, .0601, .0702, .0705, .0904, .1001, .1002, .1201-.1203, .1207, .1210, .1212-.1215, .1218, .1219, .1225, and .1226.

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://www2.ncdhhs.gov/dhsr/ruleactions.html>

Proposed Effective Date: December 1, 2018

Public Hearing:

Date: March 6, 2018

Time: 10:00 a.m.

Location: Dorothea Dix Park, Williams Building, Room 123B, 1800 Umstead Drive, Raleigh, NC 27603

Reason for Proposed Action: Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years or they shall expire. As a result of the periodic review of Subchapter 10A NCAC 14J, Jails, Local Confinement Facilities, 33 rules were determined as "Necessary With Substantive Public Interest," therefore requiring readoption as a new rule. With input from stakeholders, 32 rules are proposed for readoption with substantial changes for the operation, design, and construction of county government owned and operated jails and district jails. One rule, 10A NCAC 14J .1201 is proposed for readoption as a repeal because it is duplicative and not necessary.

Comments may be submitted to: Nadine Pfeiffer, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, NC 27699-2701; email DHSR.RulesCoordinator@dhhs.nc.gov

Comment period ends: March 19, 2018

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 14 - DIRECTOR, DIVISION OF HEALTH
SERVICE REGULATION**

**SUBCHAPTER 14J – JAILS, LOCAL CONFINEMENT
FACILITIES**

**SECTION .0100 - DEFINITIONS AND APPLICABILITY
FOR JAILS**

10A NCAC 14J .0101 DEFINITIONS

~~The~~ In addition to the definitions of G.S. 153A-217, the following definitions shall apply in 10A NCAC 14J .0101 through .1300: throughout Sections .0100 through .1300 of this Subchapter:

- (1) "Addition" ~~is~~ means an extension or increase in floor area or height of a building or structure.
- (2) "Alteration" ~~is~~ means any change or modification in construction or use.
- (3) "Booking area" ~~is~~ means ~~a secure an~~ an area where a person is admitted to a jail and procedures such as searching, fingerprinting, photographing, health screening, and collecting personal history data occur.
- (4) ~~"Section" is the Jail and Detention Section of the Division of Health Service Regulation, Department of Health and Human Services.~~
- (5)(4) "Cell" ~~is~~ means any confinement ~~unit~~ unit, except a dormitory.
- (6)(5) "Cellblock" ~~is~~ means a separate and identifiable grouping of cells.
- (7)(6) "Communicable disease or condition" ~~is~~ means an illness or condition as defined in G.S. 130A-133 ~~which is hereby adopted by reference pursuant to G.S. 150B-14(e).~~ 130A-2.
- (7) "Control center" means a room where jail personnel control the safety and security functions of the jail through the monitoring and operation of equipment that includes the communication systems, security systems, electronic surveillance systems, fire alarm system, and electronic door locking systems.
- (8) "Confinement unit" ~~is~~ means a single segregation cell, a single cell, a multiple occupancy ~~cell~~ cell, or a ~~dormitory.~~ dormitory, but shall not include a padded cell.
- (9) "Construction Section" means the Construction Section of the Division of Health Service Regulation.
- (9)(10) "Contraband" ~~is~~ means any item that a person is not authorized to possess in the jail because it is a violation of law ~~or a violation of rules.~~ G.S. 14-258.1 and G.S. 14-258.2.

- (10)(11) "Dayroom" ~~is~~ means an area accessible to a single cell or a multiple occupancy ~~cell, cell~~ with ~~controlled~~ access from the cell and ~~to~~ which inmates may be admitted space for activities such as dining, showers, physical ~~exercise~~ exercise, and recreation.
- (11)(12) ~~"Department", unless otherwise specified, is the North Carolina Department of Health and Human Services. "Department" means as defined in G.S. 153A-217.~~
- (13) "Direct two-way voice communication" means the monitoring of inmate activity by an officer who is located within a cellblock, dayroom, or dormitory and who has oral communications with inmates without the use of a remote two-way voice communication system.
- (14) "Direct visual observation" means the monitoring of inmate activity by an officer who has a personal view of the inmates without the use of video surveillance. A jail shall locate an officer either within the cellblock, dayroom, and dormitory or outside of the cellblock, dayroom, and dormitory separated by barriers with view panels. If the officer is separated by barriers from the cell block, dayroom, or dormitory, the view panels in the barriers shall be sized and located to provide the officer with a view into the interior of the cells. The front of these cells shall have bars or doors with view panels.
- (15) "Disaster plan" means an individual jail's plan with written policies and procedures that indicates what, how, and when actions shall be taken by a jail to maintain the security, welfare, and safety of inmates, staff, officers, and the public before and after the occurrence of an emergency event at the jail. This plan is created and written by the sheriff, regional jail administrator, or their designees.
- (16) "District confinement facility" means a building operated by two or more units of local government for the confinement of inmates as provided in G.S. 153A-219.
- (12)(17) ~~"Division", unless otherwise specified, is~~ "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.
- (13)(18) "Dormitory" is means an area designed to house up to 40 inmates and that combines dayroom space with sleeping space.
- (19) "Emergency event" means an event caused by the occurrence of an emergency as defined by G.S. 166A-19.3(6) or the loss of a jail's utility service that includes electricity, water, gas, or communications.
- (14)(20) ~~"Emergency medical problem" need" is a serious medical need, including severe bleeding, unconsciousness, serious breathing difficulties, head injury, severe pain, suicidal~~
- ~~behavior or severe burns, that requires immediate medical attention and that cannot be deferred until the next scheduled sick call or clinic.~~ means a medical condition that requires medical treatment as soon as noticed and that may not be deferred until the next scheduled sick call or clinic.
- (21) "Fire evacuation training" means instructing officers and jail staff in procedures related to the evacuation or relocation of building occupants when there is a fire in the jail. The instruction shall simulate an actual fire and a rehearsal of actions needed by officers and jail staff for the evacuation or relocation of building occupants but may not require the actual relocation of inmates within the jail or to the outdoors. The local fire marshal shall determine whether the rehearsal shall include the actual relocation of inmates within the jail or to the outdoors.
- (45)(22) ~~"Footcandle" is~~ means the amount of light thrown on a surface one foot away from the light source. It is a unit for measuring the intensity of illumination.
- (23) "Flushing rim floor drain" means a plumbing fixture that uses water activated by a flushometer valve to flush sanitary waste from the fixture to a sanitary drainage system. It shall be mounted flush to the floor.
- (24) "Glazing" means any infill material in a window or view panel that includes transparent or translucent glass, polycarbonate, or a combination of glass and polycarbonate.
- (46)(25) ~~"Governing body" refers to the governing body of a county or the policy making body for a district confinement facility.~~ means as defined in G.S. 153A-217.
- (17) ~~"Health screening" is a procedure for each newly admitted inmate that combines visual observation with an interview to obtain relevant information about the inmate's physical and mental health.~~
- (48)(26) ~~"Holding area" is~~ means a place where inmates are ~~temporarily~~ held while awaiting processing, booking, court appearance, discharge, or transfer to a ~~regular~~ confinement unit.
- (49)(27) ~~"Holdover facility" is~~ means a facility as defined in G.S. 7A-517(16) ~~which is hereby adopted by reference pursuant to G.S. 150B-14(e), 7B-1501.~~
- (20)(28) "Inmate" is means any person, whether pretrial, unsentenced, or sentenced, who is confined in a ~~jail~~ jail, a district confinement facility, or a county satellite jail/work release unit.
- (21)(29) ~~"Inmate processing area" is a secure area through which inmates enter and exit, and it may be combined with the booking area.~~ means a location in a jail where the booking area and

- release functions for persons committed to the jail are performed.
- (22) "Institutional Restrained" is a Building Code occupancy classification used for buildings in which persons are restrained under lock and key or other security measures which render them incapable of self preservation due to the security measures not being under their direct control.
- (30) "Interlocking security feature" means an electronic locking interface between two or more doors in a security vestibule that unlocks and opens one door while at the same time locking the other doors.
- (23)(31) "Jail" is means a building or part of a building operated by a county or group of counties for the confinement of inmates, including inmates that includes county jails, jails and district confinement facilities and jail annexes, facilities. It shall not include a county satellite jail/work release unit governed by Part 3 of Article 10 of Chapter 153A of the General Statutes.
- (24) "Jail annex" is a building or a designated portion of a building designed, staffed and used primarily to house inmates who do not present reasonably identifiable security risks.
- (32) "Means of egress" means an unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to the outside of the building.
- (33) "Medical personnel" means persons who provide medical care to inmates. Medical personnel shall include a physician, Registered Nurse, and Licensed Practical Nurse.
- (25)(34) "Medical record" is means a record of medical problems, examinations, diagnoses, and treatments.
- (35) "Mental health personnel" means persons who provide mental health services to inmates. Mental health personnel shall include a psychiatrist, psychologist, Registered Nurse, and social worker.
- (26)(36) "Multiple occupancy cell" is means a cell designed to house up to four inmates, more than one inmate.
- (27)(37) "Officer" is means a person, whether sworn or unsworn, who is involved in the supervision, control, or custody of inmates.
- (28)(38) "Operations manual" is means a set of written policies and procedures for the operation of a jail in compliance with state and federal law and the minimum standards for the operation of jails, set forth in Sections .0100 through .1100 and Section .1300 of this Subchapter.
- (39) "Program area" means a common area or room of a jail used by inmates, officers, or visitors for religious, education, training, or recreation activities.
- (40) "Program services" means activities provided to inmates by the jail that includes jail orientation, academic and vocational training, problem solving and recreational skills, and life skills in parenting and maintaining employment after release from jail.
- (29) "Qualified medical personnel" are persons who provide medical services to inmates and who are licensed, certified, registered, or approved, in accordance with state law. It includes persons who provide limited medical services under supervision as permitted by law.
- (30) "Registered dietitian" is a specialist in the field of nutrition, dietetics and food system management who maintains current registration with the Commission on Dietetic Registration of the American Dietetic Association.
- (41) "Regional jail administrator" means a person who manages a local district confinement facility on behalf of two or more units of local government as provided in G.S. 153A-219.
- (42) "Remote two-way voice communication" means the monitoring of inmate activity with a two-way voice intercom system installed between a confinement unit and a 24-hour officer staffed location away from the confinement unit.
- (34)(43) "Repair" is means reconstruction or renewal of any part of an existing building for the purpose of its maintenance.
- (32) "Residential" is a Building Code occupancy classification used for buildings which provide sleeping accommodations for the occupants and in which the egress doors are unlocked at all times thereby providing free movement to the building exterior from occupied areas.
- (44) "Routine care" means care that includes physical examinations, health screenings, diagnostic testing, and treatment for an illness, a medical condition, or a mental health condition that is not an emergency medical need.
- (33)(45) "Sally port" is means an enclosed entry and exit area used either for vehicular or pedestrian traffic with gates or doors at both ends, only one of which opens at a time.
- (34)(46) "Satellite jail/work release unit" is means a unit as defined in G.S. 153A-230.1.
- (47) "Screenings of inmates" means a procedure for each newly-admitted inmate that combines visual observation with an interview to obtain information about the inmate prior to the inmate's placement in the general population of the jail. The procedure is set forth in Rule .1002 of this Subchapter.
- (35)(48) "Secretary", unless otherwise specified, is "Secretary" means the Secretary of the Department of Health and Human Services, as defined in G.S. 153A-217.

- (36)(49) "Security perimeter" ~~is~~ means the outer portion of a jail that provides for the ~~secure~~ confinement of inmates and that prevents the entry of ~~unauthorized persons or contraband~~ not authorized by the sheriff or regional jail administrator.
- (50) "Security-type" means a designation by a manufacturer that indicates the product is designed to withstand damage and destruction by inmates.
- (37)(51) "Security vestibule" ~~is~~ means a ~~defined~~ space that provides security by using two or more doors, with each door able to operate independently, and that permits an officer to observe those who pass through the space.
- (38)(52) "Single cell" ~~is~~ means a cell designed to house one inmate.
- (39)(53) "Single segregation cell" ~~is~~ means a cell designed to house one inmate who has been removed from the general inmate population for administrative segregation, disciplinary segregation, or protective custody.
- (54) "Special inmates" means an inmate that includes a geriatric inmate, an inmate with a mental health disorder, developmental disability, intellectual disability, or substance use disorder, and an inmate with a physical disability.
- (55) "Special watch rounds" means an in-person check of an inmate by an officer at time intervals set forth in Rule .0601(c) of this Subchapter.
- (56) "Supervision rounds" means an in-person check of inmates by an officer entering and walking through a cellblock, dayroom, or dormitory. For a cellblock or dayroom, the officer shall walk past and view into each cell and observe the inmate within the cell. If during the supervision rounds inmates are located in the dayroom and not in their cells, the officer shall observe each of the inmates located in the dayroom. For a dormitory, the officer shall walk through the dormitory and observe each inmate. An officer shall conduct the in-person check at time intervals specified in Rule .0601(a) of this Subchapter.
- (40)(57) ~~"Tamper-resistant"~~ "Tamper-resistant" means ~~designed to prevent damage, destruction or interference~~ a designation by a manufacturer that indicates the product is designed to withstand dismantling of the product, removal of the product, or interference with the operation of the product by inmates.
- (58) "Total design capacity" means the maximum number of inmates that can be housed in the confinement units of the jail based on the standards contained in Rule .0103 of this Section and Section .1200 of this Subchapter.

- (59) "Unit of local government" means as defined in G.S. 153A-217.
- (60) "Video surveillance" means the monitoring of inmate activity by a video camera installed in a cell block, dayroom, or dormitory with views of the confinement units. An officer in a location remote from the cell block, dayroom, or dormitory shall observe a live video image created by the video camera on a television monitor.
- (44)(61) "View panel" ~~is~~ means a transparent panel.
- (42)(62) "Visitation area" ~~is~~ means a ~~designated~~ an area where inmates are permitted to receive visitors according to the jail's policies and procedures that govern visitation.
- (43)(63) "Work release" ~~refers to~~ means the release of a convicted inmate for employment in the ~~community~~, community ~~returning to custody~~ and the return to custody of the convicted inmate during nonworking hours.

Authority G.S. 153A-221; 153A-217.

10A NCAC 14J .0102 APPLICABILITY – OPERATIONS AND ENFORCEMENT AND INCORPORATION BY REFERENCE

(a) ~~The operations and enforcement~~ standards established in Section .0100 through .1100 and Section .1300 of this Subchapter shall apply to all jails.

(b) For the purposes of the rules in this Subchapter, the following codes, rules, and standards are incorporated herein by reference including all subsequent amendments and editions. Copies of these codes, rules, and standards may be obtained or accessed from the online addresses listed:

- (1) the North Carolina State Building Codes with copies that may be purchased from the International Code Council online at <http://shop.iccsafe.org/> at a cost of five hundred seventy-one dollars (\$571.00) or accessed electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>;
- (2) the North Carolina State Fire Prevention Code with copies that may be purchased from the International Code Council online at <http://shop.iccsafe.org/state-and-local-codes/north-carolina/north-carolina-state-building-code-fire-prevention-code-2012-2.html> at a cost of ninety-seven dollars (\$97.00) or accessed electronically free of charge at http://codes.iccsafe.org/app/book/toc/2012/North_Carolina/Fire/index.html;
- (3) 15A NCAC 18A .1517 with copies that may be accessed electronically free of charge at <http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20>

- (4) [%20environmental%20health/subchapter%20a/15a%20ncac%2018a%20.1517.pdf](#); and the National Fire Protection Association, National Fire Alarm and Signaling Code, NFPA 72 with copies of this code that may be purchased from the National Fire Protection Association online at http://catalog.nfpa.org/NFPA-72-National-Fire-Alarm-and-Signaling-Code-2016-Edition-P1198.aspx?order_src=C900&gclid=CJH4hoSFis8CFdQvgQod_y8Dig for a cost of ninety-six dollars and fifty cents (\$96.50) or accessed electronically free of charge at <http://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards?mode=code&code=72>.

Authority G.S. 153A-221.

10A NCAC 14J .0103 APPLICABILITY – CONSTRUCTION

- (a) North Carolina State Building Code—Jails must meet the requirements of the North Carolina State Building Code in effect at the time of construction, additions, alterations or repairs. A new jail or an addition or alteration to an existing jail I and II shall meet the requirements of the North Carolina State Building Codes.
- (b) New Jails—The construction standards established in Section .1200 shall apply to all jail construction for which the final working drawings are approved by the Section after the effective date of this Rule. An existing jail I and II shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, alteration, or repair.
- (c) Existing Jails—Existing jails shall continue to be governed by the existing construction standards which are now in Section .1500, and the same standards shall apply to new jails which have had final working drawings approved by the Section prior to the effective date of this Rule. Existing jails or new jails which have had final working drawings approved by the Section prior to the effective date of this Rule may choose to comply with any of the new construction standards in Section .1200 as a substitute for existing standards on the same subject in Section .3700. New jail construction or any additions or alterations to an existing jail I and II that have construction documents approved by the Construction Section on or after the readopted effective date of this Rule shall meet the requirements of this Rule and the rules of Section .1200 of this Subchapter.
- (d) Additions—The construction standards established in Section .1200 shall apply to any construction that adds square footage to the building and for which the final working drawings are approved after the effective date of this Rule. Existing jail I construction that has construction documents approved by the Construction Section prior to June 1, 1990 shall meet the requirements of this Rule and the rules of Section .1500 of this Subchapter.
- (e) Alterations or Repairs—When alterations or repairs are made to an existing jail building which affect its structural strength, exits, fire hazards, electrical systems, mechanical systems, or sanitary conditions, such alterations or repairs shall comply with

the standards for new construction established in Section .1200. Unaltered portions of the building shall only be required to comply with the new construction standards indicated in Section .1200 under the circumstances specified in Paragraphs (f)–(h) of this Rule. Existing jail II construction that has construction documents approved by the Construction Section on or after June 1, 1990 and prior to the readopted effective date of this Rule shall meet the requirements of:

- (1) this Rule; and
- (2) Rules .1202 through .1226 of this Subchapter that were in effect at the time the construction documents were approved by the Construction Section.

(f) Previous versions of the rules of Section .1200 of this Subchapter can be accessed online at <https://www2.ncdhhs.gov/dhsr/jail/index.html>.

(f)(g) Extensive Annual Alterations or Repairs—If, within any 12 month period, alterations or repairs costing in excess of 50 percent of the then physical value of the building are made to an existing jail, the entire jail shall conform to the construction standards for new jails established in Section .1200. A jail that is closed and later reopened shall meet the requirements of Paragraph (c) of this Rule. A jail is not closed if within the same twelve month period of time the jail has either:

- (1) housed inmates; or
- (2) been inspected by the Construction Section as required by G.S. 153A-222.

(g)(h) Reconstruction After Damage—If an existing jail is damaged by fire or otherwise in excess of 50 percent of the then physical value of the building at the time of damage, the jail shall be reconstructed in conformance with the construction standards for new jails established in Section .1200. Any existing building converted from another use to a new jail shall meet the requirements of Paragraph (c) of this Rule.

(h)(i) Physical Value—For the purpose of this Rule, the physical value of the jail building shall be determined by the local building inspection department. Prior to changing a jail's total design capacity by the addition or removal of bunks, the alterations of rooms, or a change in use of space, the governing body shall submit a written request of the change to the Construction Section and obtain a written approval of the change from the Construction Section. For a new jail or an existing jail I, changes to their total design capacity shall comply with the requirements for a new jail as set forth in Paragraph (c) of this Rule. For an existing jail II, changes to its total design capacity shall comply with the requirements of Paragraph (e) of this Rule.

(j) This Rule and the rules contained in Sections .1200, .1500, .1600, and .1700 of this Subchapter are minimum requirements and are not intended to prohibit jail construction, systems, or operational conditions that exceed these minimum requirements.

(k) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements of this Rule and the rules contained in Sections .1200, .1500, .1600, and .1700 of this Subchapter. The equivalency may be granted by the Division when a governing body submits a written equivalency request to the Division that indicates the following:

- (1) the rule citation and the rule requirement that will not be met;
- (2) the justification for the equivalency;

- (3) how the proposed equivalency meets the intent of the corresponding rule requirement; and
- (4) a statement by the governing body that the equivalency request will not reduce the safety and operational effectiveness of the jail design and layout.

The governing body shall maintain a copy of the approved equivalence issued by the Division.

(1) If the rules, codes, or standards contained in this Subchapter conflict, the most restrictive requirement shall apply.

Authority G.S. 153A-221.

SECTION .0200 - OPERATIONS MANUAL FOR JAILS

10A NCAC 14J .0201 REQUIREMENT FOR OPERATIONS MANUAL

Effective January 1, 1992, the ~~The~~ sheriff or the administrator of a regional jail administrator shall develop an operations manual that meets the requirements of this Section.

Authority G.S. 153A-221.

10A NCAC 14J .0203 CONTENTS OF OPERATIONS MANUAL

(a) The operations manual shall include written policies and procedures that address the following areas:

- (1) administration and ~~management~~; management of inmates;
- (2) admissions, ~~transportation~~ transportation, and release;
- (3) ~~classification~~; classification for the placement and housing of inmates, as set forth in Rule .0301(a) of this Subchapter;
- (4) security and supervision;
- (5) inmate rules and discipline;
- (6) management of special inmates;
- (7) legal rights of inmates;
- (8) health, mental health, ~~mental retardation~~ developmental disability, intellectual disability, and substance ~~abuse~~ use disorder services;
- (9) food services;
- (10) program services;
- (11) work release;
- (12) opportunities for exercise;
- (13) access to legal assistance or legal materials;
- (14) grievance procedures;
- (15) visitation and mail policies;
- (16) religious activities;
- (17) ~~sanitation~~; sanitation procedures that comply with Rule .0701 of this Subchapter;
- (18) emergency ~~plans~~; plans for a fire or an emergency situation that includes rioting, bomb threats, escapes, and the taking of hostages;
- (19) a disaster plan as required by Rule .0403(d) of this Subchapter;
- (20) a suicide prevention program;
- (21) waiving any medical fees for indigent inmates, as required by G.S. 153A-225;

(22) use of force; and

(23) use of restraints.

(b) ~~The most recent editions of the following references are available as guides for developing policies and procedures:~~

- (1) ~~Appalachian State University, Model Policies and Procedures Manual for North Carolina Jails;~~
- (2) ~~American Correctional Association, Standards for Adult Local Detention Facilities;~~
- (3) ~~American Correctional Association, Standards for Small Jails;~~
- (4) ~~National Commission on Correctional Health Care, Standards for Health Services in Jails.~~

These references shall be available for inspection or loan from the Section. Consultation and technical assistance shall be available from the Section. The Section can also provide information regarding outside agencies with additional resources for developing policies and procedures. In compliance with G.S. 153A-220(1), the Construction Section shall provide consultation and technical assistance to a jail upon request.

Authority G.S. 153A-221.

10A NCAC 14J .0204 REVIEW OF MANUAL

The operations manual shall be reviewed and updated at least once each year by the sheriff or the administrator of a regional jail. The sheriff or regional jail administrator shall review and approve the operations manual in writing annually beginning on January 1. If the operations manual has changed, it shall be updated during the review. The date of the most recent review and approval shall be stated in the operations manual. The operations manual and the written approval shall be made available to the Construction Section during an inspection upon request.

Authority G.S. 153A-221.

SECTION .0300 - CLASSIFICATION AND HOUSING

10A NCAC 14J .0301 CLASSIFICATION SYSTEM AND TOTAL DESIGN CAPACITY

(a) Each jail shall have a written classification procedure for the placement and housing of inmates. Within the limitations imposed by the design and capacity of the jail, the procedure shall assign inmates to confinement units that best meet their individual needs and that reasonably protect the inmate, other inmates, the jail staff, and the public. The procedure shall include the following criteria for inmate placement:

- (1) the medical needs of the inmate;
- (2) the level of supervision needed by the inmate related to the inmate's assaultive or non-assaultive behavior toward officers and other inmates; and
- (3) the level of security needed by the inmate to prevent the inmate's escape.

(b) When a jail exceeds its total design capacity, the sheriff, regional jail administrator, or their designees shall relocate inmates to another jail or prison to bring the number of inmates confined into compliance with the total design capacity.

Authority G.S. 153A-221.

10A NCAC 14J .0302 FEMALE INMATES

~~Male and female inmates shall not be placed in the same confinement unit, dayroom or other living area and, in addition, female inmates shall be housed out of sight of male inmates. Pursuant to G.S. 153A-228, the jail shall not house female and male inmates in the same confinement unit, dayroom, dormitory, or program area. Inmates shall be housed in the jail where they cannot converse with, see, or be seen by inmates of the opposite sex.~~

Authority G.S. 153A-221; 153A-228.

10A NCAC 14J .0303 CONFINEMENT OF MALES INMATES UNDER 18 YEARS OF AGE

~~Male inmates~~ Inmates under 18 years of age shall be confined in separate cells from adult inmates who are 18 years of age and older during sleeping hours.

Authority G.S. 153A-221.

SECTION .0400 - FIRE SAFETY

10A NCAC 14J .0402 FIRE EQUIPMENT PORTABLE FIRE EXTINGUISHERS

~~Each jail shall provide the following emergency fire equipment:~~

- ~~(1) fire extinguishers that meet all of the requirements in National Fire Protection Association pamphlet number 10 which is hereby incorporated by reference including subsequent amendments and editions of the referenced materials [a copy can be obtained from the National Fire Protection Association, 1 Battery March Park, Post Office Box 9101, Quincy, Massachusetts 02269-9959 at a cost of seventeen dollars and fifty cents (\$17.50)]; and~~
- ~~(2) smoke detection equipment that meets the requirements of the North Carolina State Building Code.~~

portable fire extinguishers that meet the requirements of the North Carolina State Fire Prevention Code.

Authority G.S. 153A-221.

10A NCAC 14J .0403 FIRE PLAN PLAN, FIRE EVACUATION TRAINING, AND DISASTER PLAN

(a) ~~Each jail shall have a written plan for the evacuation and control of inmates in the event of a fire. The plan shall include at least quarterly fire drills, and records shall be made of the fire drills and retained. The actual movement of inmates to other areas or outside the building is not required.~~

(b) Ninety percent of officers and jail staff shall receive fire evacuation training on a quarterly basis, as determined by the sheriff or regional jail administrator. Evacuation ~~The evacuation routes used in the fire evacuation training shall be posted or otherwise clearly marked throughout the jail, in the jail for viewing by officers. The sheriff or regional jail administrator shall maintain written documentation of the fire evacuation training.~~

The sheriff or regional jail administrator shall make this documentation available to the Construction Section during an inspection upon request.

(c) The sheriff or the regional jail administrator shall request in writing that the local fire department or fire marshall inspect the jail and review the fire plan at least once each year. If the local fire department or fire marshal has not inspected the jail and approved the fire plan within 12 months of the date of their last inspection, the sheriff or regional jail administrator shall request in writing an inspection and approval of the plan from the local fire department or fire marshal. The sheriff or regional jail administrator shall maintain written documentation of either the inspection and the approved fire plan, or the written request for inspection and approval of the plan. The sheriff or regional jail administrator shall make this documentation available to the Construction Section during an inspection upon request.

(d) Each jail shall have a disaster plan that shall be documented as having been submitted to the local emergency management agency. The sheriff or regional jail administrator shall review and update the disaster plan in writing not less than once each year beginning on January 1. The date of the most recent review and approval shall be stated in the plan. The disaster plan shall be maintained at the jail and shall be made available to the Construction Section during an inspection upon request.

Authority G.S. 153A-221.

10A NCAC 14J .0404 MATTRESSES

~~Mattresses shall be of fire resistive and nontoxic construction. meet the requirements of the North Carolina State Fire Prevention Code.~~

Authority G.S. 153A-221.

10A NCAC 14J .0405 KEYS

(a) ~~Each jail that is required to meet the "Institutional Occupancy Restrained" requirements of the North Carolina State Building Code classified as an Institutional Group I-3 occupancy shall have a key control system that includes the following elements: system. For the purposes of this Rule, "Institutional Group I-3 occupancy" means an occupancy classification as defined in the North Carolina State Building Code.~~

(b) The key control system shall include the following elements:

- (1) a key control center that is secure and inaccessible to unauthorized persons at all times;
- (2) a set of duplicate keys to be for emergency use stored in a safe place outside the security perimeter of the jail in a location that is inaccessible to unauthorized persons at all times; times and accessible to emergency personnel at all times;
- (3) an accounting procedure for issuing and returning keys; and
- (4) a system of keys and matching locks that are color-coded and marked for identification by touch. touch on both sides of doors installed in a means of egress.

Authority G.S. 153A-221.

SECTION .0500 - SECURITY

10A NCAC 14J .0501 GENERAL SECURITY REQUIREMENTS

Each jail shall meet the following security requirements:

- (1) provide for the ~~secure~~ confinement of inmates from the time of their passage through the security perimeter until release;
- (2) provide for the locked storage of firearms before persons enter the security perimeter;
- (3) prevent the passage of contraband;
- (4) prevent ~~unauthorized~~ contact between inmates and persons from outside the jail; jail, unless authorized by the sheriff, regional jail administrator, or their designees;
- (5) provide a ground-level perimeter exterior that is ~~well lighted; and~~ lighted; and
- (6) provide a communications link with outside agencies for use in emergencies.

Authority G.S. 153A-221.

SECTION .0600 - SUPERVISION

10A NCAC 14J .0601 SUPERVISION

(a) ~~Officers~~ A jail shall have an officer make supervision rounds and ~~directly observe each inmate in person at least not less than twice per hour on an irregular basis; basis with not more than 35 minutes between rounds.~~ Supervision rounds shall be conducted 24 hours a day, 7 days per week. The supervision rounds shall be documented, documented and maintained as written or electronic records. These records shall be made available to the Construction Section during an inspection upon request. If remote electronic monitoring is used to supplement supervision, it shall not be substituted for supervision rounds and direct visual observation. The supplemental methods of supervision specified in Paragraph (b) of this Rule shall not substitute for supervision rounds.

(b) ~~In addition to the supervision rounds required in Paragraphs (a) and (c) of this Rule, each A jail shall utilize one or both more of the following supplemental methods of supervision: supervision 24 hours a day, 7 days a week. The supplemental methods of supervision are:~~

- (1) ~~Direct or remote direct two-way voice communication with all confinement units; communication;~~
- (2) ~~Visual contact either through direct observation or by means of electronic surveillance with all confinement units; remote two-way voice communication;~~
- (3) direct visual observation; and
- (4) video surveillance.

(c) ~~Officers shall directly observe, at least four times per hour, inmates who display the following behavior:~~

- (1) physically hitting or trying to hit an officer; or
- (2) being verbally abusive; or
- (3) stating he will do harm to himself; or

- (4) ~~intoxicated, as determined by a score of .15 on a breathalyzer or displaying slurred speech or smelling of alcohol or inability to control body movement; or~~
- (5) ~~displaying erratic behavior such as screaming, crying, laughing uncontrollably, or refusing to talk at all.~~

~~In addition to displayed behavior, a previous record of a suicide attempt or a previous record of mental illness shall warrant observation at least four times per hour. While an inmate is on special watch, as specified by this Paragraph, the jail shall have an officer conduct special watch rounds and observe the inmate not less than four times per hour on an irregular basis with not more than 20 minutes between rounds. Special watch shall be conducted 24 hours a day, 7 days a week. The special watch rounds shall be documented. The jail shall maintain written or electronic records of the special watch rounds and shall make these records available to the Construction Section during an inspection upon request. The supplemental methods of supervision specified in Paragraph (b) of this Rule shall not substitute for a special watch. An inmate shall be on a special watch for the following reasons:~~

- (1) an inmate with a medical record maintained and preserved by the jail as required by Rule .1001(b)(7) of this Subchapter that indicates the inmate has attempted suicide at a previous time;
- (2) an inmate who reports a previous suicide attempt or threatens to commit suicide during their initial screening upon admission required by Rule .1001(b)(1) of this Subchapter;
- (3) an inmate who has been assigned to special watch by medical or mental health personnel of the jail or an officer;
- (4) an inmate who displays any of the following behavior:
 - (A) physically hitting or trying to hit an officer;
 - (B) verbal abuse of other people;
 - (C) threatening other people or engaging in self-injury;
 - (D) screaming, crying, laughing uncontrollably, or refusing to talk; and
- (5) an inmate who is intoxicated by alcohol or drug use as determined at intake by one of the following:
 - (A) a blood alcohol content level of .15 or greater as measured;
 - (B) use of slurred speech; or
 - (C) the inability to control body movement.

~~(d) Officers shall~~ A jail shall make sure that officers remain awake at all times; times while on duty.

~~(e) Officers shall not be assigned other duties that would interfere with the continuous supervision, custody or control of inmates. When an officer is assigned to supervise inmates as required by Paragraph (a), (b), and (c) of this Rule, a jail shall not assign the officer other tasks that would interfere with the supervision of inmates. These other tasks shall include:~~

- (1) delivering food to inmates;

- (2) preparing inmates for and transporting inmates to court;
- (3) escorting inmates to medical appointments;
- (4) performing inmate booking and release functions;
- (5) supervising inmates working in the jail; and
- (6) exchanging inmate's soiled clothing, bed sheets, and blankets with clean clothing, bed sheets, and blankets.

(f) ~~Female~~ A jail shall have female officers shall be on duty when female inmates are confined.

(g) The sheriff or the ~~administrator of the~~ regional jail administrator shall develop a contingency personnel ~~plan~~ plans for the supervision and control of inmates during ~~an emergency, and that plan~~ a fire, an emergency event, or an emergency situation that includes rioting, bomb threats, escapes, and the taking of hostages. The contingency personnel plans shall provide for the ready availability of extra personnel. A contingency personnel plan shall be included in the emergency plans required by Rule .0203(18) of this Subchapter and the disaster plan required by Rule .0403(d) of this Subchapter.

(h) ~~Inmates~~ A jail shall not be allowed allow an inmate to supervise or assume any control over other inmates.

Authority G.S. 153A-221.

SECTION .0700 - SANITATION AND PERSONAL HYGIENE

10A NCAC 14J .0702 MATTRESSES AND BEDDING

(a) ~~Mattresses, sheets, and blankets that are clean and in good repair are capable of being used for their intended purpose shall be supplied to all inmates except those not who are housed overnight. Clean sheets shall be issued at least once a week. Mattresses shall meet the following requirements:~~

(b) Mattresses shall:

- (1) ~~Mattresses shall comply with Commission for Public Health rules on sanitation, Title 15A Chapter 18B .0201—.0215 and G.S. Chapter 130A-273 which are adopted by reference pursuant to G.S. 150B-14(e). G.S. 106.65.95 through 106.107 and the requirements of 15A NCAC 18A .1517;~~
- (2) ~~Mattresses shall not be less than four inches thick and shall be the same length and width as the jail bunks; thick;~~
- (3) ~~be the same length and width as the jail bunks;~~
- (3)(4) ~~Mattresses shall not have any metal, plastic, or other rigid framing component; component;~~ and
- (4)(5) ~~Mattress have ticking that is shall be durable and water repellent.~~

Authority G.S. 153A-221.

10A NCAC 14J .0705 PERSONAL HYGIENE ITEMS

(a) Every inmate detained over 24 hours shall be issued without charge the following ~~items as appropriate; items:~~

- (1) ~~Toothbrush; toothbrush;~~

- (2) ~~Toothpaste~~ toothpaste or tooth powder;
- (3) ~~Comb; and comb;~~
- (4) ~~Feminine feminine~~ hygiene products; products, if appropriate;
- (5) deodorant; and
- (6) shampoo.

(b) ~~After a newly admitted an~~ inmate has exhausted his or her initial supply of personal hygiene ~~items, items listed in Paragraph (a) of this Rule, each jail shall make the listed these items available either for inmate purchase or without charge. charge, as determined by the jail.~~

Authority G.S. 153A-221.

SECTION .0900 - FOOD

10A NCAC 14J .0904 MENUS

(a) ~~Menus shall be prepared~~ A jail shall prepare menus in consultation with a registered dietitian or nutritionist.

(b) Menus shall be written and portion sizes shall be ~~specified. specified within the menu.~~

(c) Menus shall be dated and posted in the jail one week in ~~advance. advance of serving a meal.~~

(d) ~~Menus shall be served as written to inmates in the jail. Any necessary substitutions shall be of comparable nutritional value, and a written record of substitutions shall be kept. Menus shall be served to inmates as written, unless a substitution of comparable nutritional value is served as determined by the dietitian or nutritionist. Substitutions to the menu shall be made in consultation with a dietitian or nutritionist.~~

(e) The same menu shall not be served at lunch and dinner on the same day.

(f) Dated menus and records of any substitutions shall be retained for three ~~years. years by the jail or the jail's food vendor either at the jail or at a remote location.~~

(g) If requested during a Construction Section inspection, the jail shall make dated menus and records of substitutions available to the Construction Section within 30 days of the request.

Authority G.S. 153A-221.

SECTION .1000 - HEALTH CARE OF INMATES AND EXERCISE

10A NCAC 14J .1001 MEDICAL PLAN

(a) ~~A written medical plan shall be developed in compliance with G.S. 153A-225 and it shall be available for ready reference by jail personnel. A governing body shall develop and adopt a written medical plan in compliance with G.S. 153A-225. The medical plan shall be available for reference by jail personnel. The medical plan shall include a description of the health services available to inmates.~~

(b) The written plan shall include policies and procedures that address the following areas:

- (1) ~~Health~~ screening of inmates upon admission; admission as set forth in Rule .1002(a) of this Section;
- (2) ~~Handling~~ handling routine medical care;

- (3) handling routine care for an inmate's needs related to:
 - (A) mental health;
 - (B) a developmental and intellectual disability; and
 - (C) a substance use disorder;
- ~~(3)~~(4) The ~~the~~ handling of inmates with chronic illnesses or ~~known~~ communicable diseases or conditions;
- ~~(4)~~(5) Administration, ~~dispensing~~ administration, dispensing, and control of prescription and non-prescription medications;
- ~~(5)~~(6) Handling ~~handling~~ emergency medical problems, ~~needs~~, including but not limited to emergencies involving dental care, chemical dependency, substance use disorder, pregnancy, and mental health;
- ~~(6)~~(7) Maintenance maintenance, preservation, and confidentiality of medical records; and
- ~~(7)~~(8) Privacy ~~privacy~~ during medical examinations and conferences with ~~qualified~~ medical or mental health personnel.

(c) Inmates ~~must~~ shall be provided an opportunity each day to communicate their health complaints to ~~a health professional~~ medical personnel, mental health personnel, or to an officer. Qualified medical Medical personnel or mental health personnel shall be available to evaluate the medical needs of inmates. inmates related to medical care, mental health care, a substance use disorder, and a developmental or intellectual disability. A written record shall be maintained. A jail shall maintain a written record of the request for medical care an inmate's health complaints and the action taken. taken by the jail. The jail shall make these records available to the Construction Section during an inspection upon request.

(d) Inmates shall not ~~perform any medical functions~~ render medical care, mental health care, substance use disorder services, and developmental or intellectual disability services to anyone in the jail.

(e) ~~The medical plan shall be reviewed annually. The local or district health director shall review and update the medical plan in writing not less than once each year beginning on January 1. The date of the most recent review shall be stated in the plan. The medical plan shall be maintained at the jail and shall be made available to the Construction Section during an inspection upon request.~~

Authority G.S. 153A-221; 153A-225.

10A NCAC 14J .1002 HEALTH SCREENING FORM SCREENING OF INMATES

(a) The health screening form completed upon admission by an officer shall be available to jail officers, and a copy of the form shall be kept in any medical file that is maintained for inmates. The form shall be reviewed for the presence of confidential information which can not be made available to jail officers. Medical personnel, mental health personnel, or an officer shall conduct and document screenings of each inmate upon admission for the following:

- (1) medical care needs;

- (2) mental health care needs;
- (3) developmental and intellectual disabilities;
- (4) substance use disorders; and
- (5) risk of suicide.

(b) Medical personnel or mental health personnel shall maintain a record of the screening in each inmate's medical record. In compliance with G.S. 153A-222, documentation of the screening shall be made available to the Construction Section during an inspection upon request.

(c) Officers may access or use information from the screening in accordance with the confidentiality policy and procedures for medical records that is required by Rule .1001(b)(7) of this Section.

Authority G.S. 153A-221.

SECTION .1200 - STANDARDS FOR NEW JAIL DESIGN AND CONSTRUCTION

10A NCAC 14J .1201 APPLICABILITY – CONSTRUCTION

(a) North Carolina State Building Code—Jails must meet the requirements of the North Carolina State Building Code in effect at the time of construction, additions, alterations or repairs.

(b) New Jails—The construction standards established in Section .1200 shall apply to all jail construction for which the final working drawings have been approved by the Branch after the effective date of this Rule. The operational standards in Sections .0100 through .1000 of this Subchapter will affect design options and shall be reviewed prior to submittal of working drawings.

(c) Existing Jails—Existing jails shall continue to be governed by the existing construction standards which are now in Section .1500 and the same standards shall apply to new jails which have had final working drawings approved by the Section prior to the effective date of this Rule. Existing jails or new jails which have had final working drawings approved by the Section prior to the effective date of this Rule may choose to comply with any of the new construction standards in Section .1200 as a substitute for existing standards on the same subject in Section .1500.

(d) Additions—The construction standards established in Section .1200 shall apply to any construction that adds square footage to the building and for which the final working drawings are approved after the effective date of this Rule.

(e) Alterations or Repairs—When alterations or repairs are made to an existing jail building such alterations or repairs shall comply with the standards for new construction established in Section .1200. Unaltered portions of the building shall be required to comply with the new construction standards indicated in Section .1200 only under the circumstances specified in Paragraphs (f)–(h) of this Rule.

(f) Extensive Annual Alterations or Repairs—If, within any 12 month period, alterations or repairs costing in excess of 50 percent of the then physical value of the building are made to an existing jail, the entire jail shall conform to the construction standards for new jails established in Section .1200.

(g) Reconstruction After Damage—If an existing jail is damaged by fire or otherwise in excess of 50 percent of the then physical value of the building at the time of damage, the jail shall be

reconstructed in conformance with the construction standards for new jails established in Section .1200.

(h) ~~Physical Value~~ For the purpose of this Rule, the physical value of the jail building shall be determined by the local building inspection department.

Authority G.S. 153A-221.

10A NCAC 14J .1202 CONSULTATION AND TECHNICAL ASSISTANCE

~~Consultation and technical assistance in planning a new jail shall be available through the Section. In compliance with G.S. 153A-220(1), the Construction Section shall provide consultation and technical assistance to a governing body in the planning and construction of a new jail or an addition, alteration, or repair of an existing jail I and II.~~

Authority G.S. 153A-221.

10A NCAC 14J .1203 COMPLIANCE REVIEW AND APPROVAL

(a) ~~The Prior to the construction of a new jail or the construction of an addition or alteration to an existing jail I and II, the governing body shall submit copies of the following to the Branch before it begins construction of a new jail and before it makes additions or alterations to an existing jail as defined by the North Carolina State Building Code: Construction Section for review and approval:~~

- (1) ~~three~~ two sets of schematic drawings and outline specifications;
- (2) ~~three~~ two sets of preliminary working drawings or design development drawings and outline specifications; and
- (3) ~~three~~ two sets of ~~completed final working drawings~~ construction documents and specifications.

The Construction Section shall review one set of these drawings, documents, and specifications for compliance with the standards established in this Section and Rule .0103 of this Subchapter. The Construction Section shall have 45 days from receipt of these drawings, documents, and specifications to complete their review.

(b) ~~Upon receipt of the drawings drawings, documents, and specifications at each stage, indicated in Paragraph (a) of this Rule, the Construction Section shall send one set each to the following for their review and approval: the North Carolina Department of Insurance for plan review to insure confirm compliance with the North Carolina State Building Code, and the Division of Environmental Health in the Department of Environment and Natural Resources to insure compliance with the rules governing sanitation as codified in 15A NCAC 18A, Section .1500 and which are hereby incorporated by reference including subsequent amendments and editions of the referenced materials. A copy of this material can be obtained free of charge from the State Division of Health Services, Environmental Health Section, Post Office Box 27687, Raleigh, North Carolina 27611-7687. Codes. The Section shall keep one set for its own review and approval to insure compliance with the minimum standards for the operation and construction of jails as contained in this Subchapter. Review and comment on the drawings and~~

~~specifications at each stage shall be made no later than 30 days after their receipt by the Section. The Construction Section's approval shall be contingent upon the approval by the North Carolina Department of Insurance and the local building code official.~~

(c) During their review, the Construction Section shall determine the total design capacity of the confinement units in the jail. The Construction Section's approval letter required by Paragraph (g) of this Rule shall indicate the total design capacity of the jail with a breakdown of the total design capacity as follows:

- (1) total capacity of confinement units designed for male inmates who are 18 years of age or older;
- (2) total capacity of confinement units designed for male inmates who are under 18 years of age;
- (3) total capacity of confinement units designed for female inmates who are 18 years of age or older; and
- (4) total capacity of confinement units designed for female inmates who are under 18 years of age.

(d) In order to maintain compliance with the standards established in this Section and Rule .0103 of this Subchapter, the governing body shall obtain written approval from the Construction Section for any changes made during the construction of the jail in the same manner as set forth in Paragraph (a) of this Rule.

(e) Two weeks prior to the anticipated construction completion date, the governing body shall notify the Construction Section of the anticipated construction completion date in writing either by U.S. Mail at the Division of Health Service Regulation, Construction Section, 2705 Mail Service Center, Raleigh, NC, 27699-2705 or by e-mail at DHSR.Construction.Admin@dhhs.nc.gov.

(f) Prior to inmate occupancy of the jail, the governing body shall obtain written approval of the completed construction from the Construction Section.

(g) When the Construction Section approves the construction documents and specifications, they shall provide the governing body with an approval letter. The Construction Section's approval of the construction documents and specifications shall expire 24 months after the issuance of the approval letter, unless the governing body has obtained a building permit for construction. The Construction Section shall have 45 days from receipt of a request for a renewed approval to complete their review of the request. If the Construction Section's approval has expired, the governing body may obtain a renewed approval of the construction documents and specifications from the Construction Section as follows:

- (1) If the standards established in this Section and Rule .0103 of this Subchapter have not changed, the governing body shall request a renewed approval of the construction documents and specifications from the Construction Section.
- (2) If the standards established in this Section and Rule .0103 of this Subchapter have changed, the governing body shall:
 - (A) submit revised construction documents and specifications meeting the current standards established in Rule .0103 and Section .1200 of this

- (B) Subchapter to the Construction Section; and
receive written approval of the revised construction documents and specifications from the Construction Section.

Authority G.S. 153A-221.

10A NCAC 14J .1207 INMATE PROCESSING AREA AND PADDED CELL

(a) Each jail that performs a booking and release function shall have an inmate processing area that includes the following:

- (1) a separate inmate entrance;
- (2) a holding area with seating and access to a ~~commode, toilet,~~ lavatory, drinking fountain, and a shower;
- (3) a booking area that includes space for photographing and fingerprinting ~~inmates and a telephone for making local and collect long distance calls; and~~ inmates;
- (4) a telephone for making local and collect long-distance calls; and
- ~~(4)(5)~~ a sobriety testing area.

(b) A holding area may have a cell but it shall not be used as a confinement unit.

(c) The inmate processing area may have a padded cell. The padded cell may be located in the medical area required by Rule .1209 of this Section. The padded cell shall:

- (1) be limited to one inmate;
- (2) contain a flushing rim floor drain that:
 - (A) is capable of accepting solid waste;
 - (B) has its flushing control located outside of the cell; and
 - (C) has a tamper-resistant cover as rated by the manufacturer;
- (3) be located to allow observation of the cell by an officer 24 hours a day 7 days per week;
- (4) have not less than 50 square feet of floor area with no one floor dimension being less than seven feet;
- (5) have not less than an eight feet clear ceiling height;
- (6) provide a food pass with a lockable shutter;
- (7) have a door with a view panel large enough to permit observation of the entire cell;
- (8) be equipped with a fire sprinkler rated as tamper resistant by the manufacturer;
- (9) have remote two-way voice communication;
- (10) be padded with padding material that meets the requirements of Paragraph (c) of this Rule;
- (11) be separated from the remainder of the jail as required by Paragraph (d) of this Rule; and
- (12) have a water hose connection outside the cell that is not accessible to an inmate.

(d) Cell padding shall meet the requirements of the North Carolina State Fire Prevention Code. Cell padding shall be:

- (1) not less than ½ inch thick;

- (2) of a unitary or laminated construction designed to prevent destruction by teeth, hand tearing, or small metal objects;
 - (3) bonded to surfaces to prevent tearing or ripping; and
 - (4) without exposed seams that can be ripped open.
- (e) A padded cell shall be separated from the remainder of the jail with a 1-hour fire-resistance-rated fire barrier and a fire door with a fire protection rating of not less than 45 minutes as required by the North Carolina State Building Code.

Authority G.S. 153A-221.

10A NCAC 14J .1210 OTHER AREAS

(a) Each jail that does not contract for meals shall have a kitchen. ~~If However, if~~ a county or a region has more than one jail, it shall be required to provide only one kitchen if it meets the needs of the inmates in all of the jails.

(b) Each jail that does not contract for laundry services shall have a laundry. ~~If However, if~~ a county or a regional jail has more than one jail, it shall be required to provide only one laundry if it meets the needs of the inmates in all of the jails.

(c) Each jail shall have ~~an area or areas specifically designated for indoor and outdoor physical exercise. exercise areas.~~ The indoor and outdoor exercise areas shall meet the following requirements:

- (1) An outdoor exercise area or areas shall:
 - (A) be 15 square feet per inmate for the maximum number of inmates expected to use an exercise area at one time as determined by the jail;
 - (B) be not less than 100 square feet for each individual exercise area serving one inmate;
 - (C) be not less than 300 square feet for each individual exercise area serving more than one inmate;
 - (D) have a hard surface for the floor;
 - (E) be enclosed by physical barriers that prevent inmate escape;
 - (F) be out of sight from the public; and
 - (G) if covered by a roof, be covered by noncombustible roof construction.
- (2) An indoor exercise area or areas shall:
 - (A) be located in the dayroom, cellblock, dormitory, or a separate room located near the dayroom, cellblock or dormitory.
 - (B) be 15 square feet per inmate for the maximum number of inmates expected to use an exercise area at one time as determined by the jail;
 - (C) be not less than 100 square feet for each individual exercise area serving one inmate;
 - (D) be not less than 300 square feet for each individual exercise area serving more than one inmate; and

- (E) if the exercise area is located in a dayroom or dormitory, be in addition to the floor area required by Rules .1225 and .1226 of this Section.

(d) Each jail shall provide areas with shelves that meet its storage needs. ~~Each jail shall provide a separate area for the secure storage of inmate personal property.~~

(e) Each jail shall have a cleaning area that is equipped with a sink and that provides for the ~~secure~~ storage of cleaning supplies and ~~equipment.~~ equipment in a locked area.

(f) Each jail shall provide ~~adequate secure~~ a separate locked storage area or areas for the storage of inmate personal property that includes storage for those inmates who are placed on work release.

(g) A control center shall have:

- (1) a security vestibule at its entrance; and
- (2) a room with a toilet and sink that is contiguous to the control room.

Authority G.S. 153A-221.

10A NCAC 14J .1212 FLOORS, CEILINGS, AND WALLS

(a) ~~All ceilings, walls, and floors~~ Ceilings and walls in confinement units, cellblocks, dayrooms, the inmate processing area, and the medical area shall have a finished surface that is easily cleaned, cleanable, nontoxic, and predominantly of light colors.

(b) Floors in confinement units, cellblocks, dayrooms, the inmate processing area, and the medical area shall have a finished surface that is cleanable and nontoxic.

Authority G.S. 153A-221.

10A NCAC 14J .1213 SHOWERS AND PLUMBING FIXTURES

(a) Each jail shall provide at least one shower for every eight inmates.

(b) ~~Showers~~ A shower stall floor shall have drains be sloped to a floor drain that prevent prevents water from draining outside the shower, and the shower fixtures and drains shall be tamper resistant if necessary for security. shower stall. The floor used to access the shower stall that is outside of the stall but contiguous to the shower stall floor shall be sloped to a floor drain.

(c) In inmate accessible areas, the shower fixture and floor drain cover shall be security-type and tamper-resistant as rated by the manufacturer.

~~(e)(d) Plumbing~~ In inmate accessible areas, plumbing fixtures shall be made of stainless steel or other materials as necessary for security. similar materials that are rated as security-type and tamper-resistant by the manufacturer.

~~(d) Drinking fountains shall be equipped with mouth guards.~~

(e) All privacy partitions in showers and bathrooms shall be high enough to allow limited privacy for the inmates while still allowing adequate supervision of the inmates by officers.

Authority G.S. 153A-221.

10A NCAC 14J .1214 WINDOWS AND GLAZING

~~(a) Windows and window framing, including glazing, shall be made of materials necessary to provide the degree of security required for the area in which they are used.~~

~~(b)(a) Glazing shall be diffused or obscured if it affords a view into confinement units from outside the jail. If glazing affords persons from outside of the jail a view of inmates inside the jail, the glazing shall:~~

- ~~(1) admit natural light into the confinement unit or dayroom;~~
- ~~(2) be diffused or obscured to prevent persons from outside the jail from observing inmates inside the jail.~~

~~(e)(b) View panels shall be made of materials necessary to provide the degree of security required for the area in which they are used, and those used for A view panel used to observe a confinement units unit shall have an area that permits observation of the entire unit.~~

(c) For a single segregation cell, a window to the outdoors shall be provided either in the cell or in the corridor that is contiguous to the cell. If the window is provided in the cell, it shall have a gross window area measuring not less than three square feet. If the window is provided in the corridor that is contiguous to the cell, the gross window area of the corridor shall be equivalent to the sum of two square feet per inmate whose segregation cell is contiguous to the corridor or 48 square feet, whichever is greater. The cell door shall have a window area measuring not less than 96 square inches.

~~(d) Natural light shall be admitted into all confinement units either directly or indirectly. Unless natural light is provided to a single cell or multiple occupancy cell from a dayroom as set forth in Paragraph (e) of this Rule, a cell shall have windows to the outdoors. The windows shall comply with the following:~~

- ~~(1) a single cell shall have a gross window area measuring not less than three square feet;~~
- ~~(2) a multiple occupancy cell with two inmates shall have a gross window area measuring not less than three square feet; and~~
- ~~(3) a multiple occupancy cell with three or more inmates shall have a gross window area measuring not less than five square feet.~~

~~(e) Unless natural light is provided to a single cell or multiple occupancy cell as set forth in Paragraph (d) of this Rule, a dayroom contiguous to the single cell or multiple occupancy cell shall have windows to the outdoors. The gross window area of the dayroom shall be equivalent to the sum of two square feet per inmate whose single cell or multiple occupancy cell is contiguous to the dayroom or 48 square feet, whichever is greater. Unless the front of the cell has metal bars, each cell door of the dayroom shall have a view panel with:~~

- ~~(1) an area measuring not less than three square feet; and~~
- ~~(2) transparent glazing.~~

~~(f) A dormitory as set forth in Rule .1226 of this Section shall have windows to the outdoors with a gross window area measuring not less than two square feet per inmate or 48 square feet, whichever is greater.~~

~~(g) An exterior window that is less than 18 feet above finished floor in a room or area where inmates are located shall be designed~~

and constructed with either the height or width of its framed or barred opening not more than 5 inches in length. For the purposes of this Paragraph, a "framed or barred opening" means the area available for escape after glazing is broken and removed from a window.

(h) Windows, skylights, or a combination of windows and skylights may be used in dormitories and dayrooms to comply with the requirements of this Rule.

(i) A solar tubular skylight shall not be used to comply with this Rule. For the purposes of this Rule, a "solar tubular skylight" means a tubular daylighting device that delivers natural light from the outdoors to an interior space that is unreachable by a window and skylight installed in an exterior wall or roof.

Authority G.S. 153A-221.

10A NCAC 14J .1215 DOORS, BUNKS AND LOCKS BUNKS, LOCKS, AND FASTENERS

(a) ~~Doors, locks and detention hardware shall be made of materials necessary to provide the degree of security required for the area in which they are used. A jail shall provide doors, locks, and detention hardware that are rated by the manufacturer as security-type and as acceptable for use in correctional facilities.~~

(b) Fasteners used in inmate accessible areas shall be rated by the manufacturer as security-type and tamper-resistant.

~~(b)(c)~~ (c) Doors to all ~~confinement units~~ confinement units, cellblocks, inmate accessible corridors, and dayrooms shall have view panels.

~~(e) Doors shall operate independently of each other, and the cell doors in a cellblock shall be capable of simultaneous release during an emergency.~~

(d) A security vestibule and a sally port shall have:

- (1) one or more interior doors or gates and an entrance door or gate;
- (2) doors or gates provided with an interlocking security feature;
- (3) interior doors or gates arranged to be locked and unlocked by means located outside of the security vestibule, sally port, dormitory, dayroom, and cellblock; and
- (4) doors or gates provided with override capability to unlock all doors or gates in the event of an emergency.

~~(d)(e)~~ (e) Doors and locks that are electronically controlled shall be equipped with manual override.

~~(e)(f)~~ (f) Food passes, passes in doors, if used, shall have openings large enough to permit the passage of a food tray.

~~(f)(g)~~ (g) Bunks shall have dimensions necessary to accommodate a standard detention mattress and they shall be securely anchored at least 15 inches above the floor. When one bunk is placed above another, the lower bunk shall be approximately 15 inches and the upper bunk approximately 50 inches above the floor. Single segregation cells and single cells shall have a single bunk. Multiple occupancy cells and dormitories shall have single bunks or double bunks. A bunk shall:

- (1) have dimensions large enough to accommodate a detention mattress;

(2) be anchored not less than 15 inches above the floor, if a single bunk or a lower bunk of a double bunk;

(3) be anchored not less than 50 inches above the floor, if an upper bunk of a double bunk;

(4) be anchored flush to the wall;

(5) have a lip to hold the mattress in place; and

(6) have tamper resistant construction.

~~(g)(h) Doors, locks, detention hardware and bunks shall be designed to inhibit their use for an attempted suicide. Cells required to be accessible for persons with disabilities as required by the North Carolina State Building Code shall not have an upper bunk.~~

(i) Inmate accessible areas of the jail shall be equipped or furnished in a manner that decreases suicide hazards within the jail. Items a jail shall provide to reduce suicide hazards for inmates includes the following:

- (1) handrails or grab bars with a closure plate that is installed between the wall and the handrail or grab bar;
- (2) exposed door hinges with a sloped top and bottom;
- (3) non-vertical surfaces of door hardware with a slope;
- (4) holes in the bunk mattress platform that are no more than 1/8 inch in diameter;
- (5) shower heads that are not hand-held with a hose; and
- (6) heating, ventilating, and air conditioning supply and return grilles with openings not more than 3/16 inches wide, if the supply and return grilles are located in a cell used to house inmates on special watch.

Authority G.S. 153A-221.

10A NCAC 14J .1218 PLUMBING SYSTEMS

~~(a) Each jail shall have a plumbing system that complies with the Commission for Public Health Rules 15A NCAC 18A, Section .1500 and the North Carolina State Building Code, Plumbing Code, both of which are hereby incorporated by reference including subsequent amendments and editions of the referenced materials. A copy of 15A NCAC 18A, Section .1500 can be obtained free of charge from the State Division of Health Services, Environmental Health Section, Post Office Box 27687, Raleigh, North Carolina 27611 7687. A copy of the North Carolina State Building Code, Plumbing Code (Volume II of the North Carolina State Building Code) can be obtained for twenty five dollars (\$25.00) from the North Carolina Department of Insurance, Post Office Box 26387, Raleigh, North Carolina 27611.~~

~~(b)(a)~~ (a) Each A jail shall have a hot water supply for lavatories and showers designed to meet the usual needs of the number of inmates confined in the jail, as determined by the governing body. The hot water temperature at lavatories and showers used by inmates shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).

~~(e)(b) The master control valves for the plumbing system shall be located outside the confinement units and shall be accessible to officers during an emergency. A jail shall not locate the following valves of the water supply system in rooms or areas accessible by inmates:~~

- ~~(1) a shut-off valve for a supply branch line serving plumbing fixtures;~~
- ~~(2) a shut-off valve for a riser pipe serving plumbing fixtures; and~~
- ~~(3) a shut-off valve to a plumbing fixture.~~

~~(c) The shut-off valves listed in Paragraph (b) of this Rule shall be accessible to officers.~~

Authority G.S. 153A-221.

10A NCAC 14J .1219 ELECTRICAL SYSTEMS

~~(a) Each jail shall have an electrical system that provides artificial lighting in the confinement units of at least 30 footcandles and that can be reduced during sleeping hours, of not less than:~~

- ~~(1) 30 footcandles of light at floor level in confinement units and dayrooms that can be reduced during sleeping hours; and~~
- ~~(2) 20 footcandles of light at floor level in corridors.~~

~~(b) Artificial lighting in the corridors shall be at least 20 footcandles.~~

~~(e)(b) Lighting In inmate accessible areas, lighting fixtures shall be made of materials necessary to provide the degree of security required for the area in which they are used. security-type and tamper-resistant as rated by the manufacturer.~~

~~(c) In inmate accessible areas, a fire alarm system notification appliance shall be rated as tamper-resistant by the manufacturer or enclosed in a metal guard. For the purposes of this Rule, "notification appliance" means a component of the fire alarm system as defined by the National Fire Protection Association, National Fire Alarm and Signaling Code, NFPA 72.~~

~~(d) Each A jail shall provide an electrical connection and an antenna or cable connections connection for a television in its dayroom areas.~~

~~(e) The master controls and circuit breakers main electrical distribution panel and electrical subpanels shall not be located outside the confinement units in areas accessible by inmates and shall be accessible to officers during an emergency.~~

~~(f) Each jail shall have an auxiliary emergency power supply for each electrical system. A jail shall provide emergency power to areas, equipment, and systems as required by the North Carolina State Building Codes. A jail may provide additional emergency power to maintain jail operations and functions needed during a power outage. If the following functions are not provided with emergency power, the disaster plan required by Rule .0403 of this Subchapter shall indicate how these functions will be maintained during a power outage:~~

- ~~(1) operating equipment and systems located in the control center;~~
- ~~(2) heating, ventilation, and air conditioning of the jail;~~
- ~~(3) heating of hot water for inmate lavatories and showers; and~~

- ~~(4) preparing and cooking of inmate meals, if meals are prepared in the jail.~~

~~(g) If the fire alarm control panel is not located in the control center, a jail may install a remote annunciator panel in the control center to provide officers with fire alarm status information from the fire alarm control panel. For the purposes of this Rule, a "fire alarm control panel" means a component of the fire alarm system as defined by the National Fire Protection Association, National Fire Alarm and Signaling Code, NFPA 72. For the purposes of this Rule, a "remote annunciator panel" means a component of the fire alarm system as defined by the National Fire Protection Association, National Fire Alarm and Signaling Code, NFPA 72, which is herein incorporated by reference, including all subsequent amendments and editions.~~

Authority G.S. 153A-221.

10A NCAC 14J .1225 STANDARDS FOR DAYROOMS

Each dayroom shall have:

- ~~(1) a separate and complete security vestibule at its entrance;~~
- ~~(2) a minimum floor space of not less than 105 square feet or 35 square feet per inmate, whichever is greater;~~
- ~~(3) sufficient seating for the capacity of the unit cellblock;~~
- ~~(4) sufficient table space for the capacity of the unit cellblock, unless each inmate has unrestricted access to their cell with a table and chair, in which case the dayroom shall have sufficient table space for 70 percent of the capacity of the unit cellblock;~~
- ~~(5) a telephone jack or other telephone arrangement access to a telephone provided within the dayroom;~~
- ~~(6) a way for officers to observe the entire area; and~~
- ~~(7) one toilet toilet, sink, and security mirror per eight inmates inmates, unless the inmates have unrestricted access to a cell with a toilet, sink, drinking fountain and security mirror. mirror; and~~
- ~~(8) one drinking fountain, unless the inmates have unrestricted access to their cell with a drinking fountain.~~

Authority G.S. 153A-221.

10A NCAC 14J .1226 STANDARDS FOR DORMITORIES

~~Each dormitory shall house no more than 40 inmates and shall have:~~

- ~~(1) a minimum floor space of 70 square feet per inmate including both the sleeping and dayroom area;~~
- ~~(2) one shower per eight inmates, one toilet per eight inmates, one sink with a security mirror per eight inmates, and one water fountain;~~
- ~~(3) a telephone jack or other telephone arrangement provided within the dormitory;~~

- (4) ~~space designed to allow a variety of activities;~~
- (5) ~~sufficient seating and tables for all inmates; and~~
- (6) ~~a way for officers to observe the entire area from the entrance.~~

A dormitory shall meet the requirements of G.S. 153A-221(d).

Authority G.S. 153A-221.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends amend the rules cited as 15A NCAC 10F .0305, .0338, and .0350.

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

Proposed Effective Date: *July 1, 2018*

Public Hearing:

Date: *February 6, 2018 for 15A NCAC 10F .0338 and .0350*

Time: *10:00 a.m.*

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

Date: *February 5, 2018 for 15A NCAC 10F .0305 Brunswick County*

Time: *5:00 p.m.*

Location: *Town Hall, 700 Sunset Blvd., Sunset Beach, NC 28468*

Reason for Proposed Action: *The City of Hickory submitted an application for a no-wake zone within 50 yards of the docks at the Lake Hickory Marina to mitigate hazards to water safety caused by fueling docks, limited vision around docked vessels, and hazards from wakes to boaters launching boats. NC State Parks submitted an application for an extension of the no-wake zone at the Holly Point Boating Access Area on Falls Lake, to mitigate hazards to people launching and retrieving boats caused by excessive speeds near the BAA. A no-wake zone is proposed at Sunset Beach in Brunswick County in the vicinity of the bridge and Boating Access Area on the ICW, to mitigate hazards to boaters caused by narrow shallow water and diminished sight lines at the bridge.*

Comments may be submitted to: *Betsy Haywood, No-Wake Zone Coordinator, 1701 Mail Service Center, Raleigh, NC 27699-1701; email betsy.haywood@ncwildlife.org*

Comment period ends: *March 19, 2018*

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 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0305 BRUNSWICK COUNTY

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

- (1) ~~Lockwoods Folly River. An area on that portion of the Lockwood Lockwoods Folly River in the Town of Varnamtown, beginning 1500 feet from a point at 33.94966 N, 78.22587 W 500 yards north northwest of the boat ramp located at the end of State Road 1123 SR 1123 otherwise known as Fisherman Road, and extending downstream to a point 800 feet at 33.94498 N, 78.22206 W, 180 yards southeast south of said the boat ramp ramp, and including the portion of the river otherwise known as Mill Creek where it meets Lockwoods Folly River directly across from the boat ramp, to a point 100 feet northeast at 33.94687 N, 78.22235 W; beginning at its intersection with the Lockwood Folly River and extending upstream for 100 feet.~~
- (2) ~~Calabash River. An area located on the Calabash River beginning 100 feet west of the Billy Cox Landing and extending 100 feet east of Captain Harry's Landing, in the Town of Calabash, from a point in the water at the end of Marina Drive at 33.88638 N, 78.56254 W to a point 650 yards southwest at the southern end of the deep-sea fishing docks at 33.88344 N, 78.56751 W;~~
- (3) ~~State Port Authority Small Boat Harbor. Beginning at the Intracoastal Waterway on the~~

- easterly side of the North Carolina State Port Authority Small Boat Harbor; thence runs along and with the easterly boundary of the said boat harbor basin and along the northerly boundary and westerly boundary thereof to a point at the intersection of the westerly boundary of said boat harbor with the highwater mark of the Intracoastal Waterway; runs thence in an easterly direction with the highwater mark of the Intracoastal Waterway to the place and point of beginning, and being the entire small boat harbor in Southport. The Small Boat Harbor, shore to shore beginning at its intersection with the Intracoastal Waterway at a point at 33.91685 N, 78.02865 W;
- (4) Shallotte River. The portion of the Shallotte River east of SR 1233, otherwise known as Village Point Road SW south of the Town of Shallotte, shore to shore from beginning at its intersection with the Intracoastal Waterway at a point at 33.91477 N, 78.37103 W and extending from the northern boundary of the Intracoastal Waterway for a distance of 500 feet to the north, to be marked by appropriate markers. to point 500 feet north at 33.91613 N, 78.37126 W;
- (5) Big Davis Creek. That part of Montgomery Slough otherwise known as Big Davis Creek Creek, within 100 yards of Sportsman Inn at Blue Water Point Marina near Long Beach. the hotel and marina at the northern end of 57th Place West in the Town of Oak Island;
- (6) Town of Ocean Isle Beach. Those The waters in the natural and concrete canals, both natural and concrete, which are canals located on the south side of the Intracoastal Waterway Waterway, east of N.C. Highway 904 in the Town of Ocean Isle Beach.
- (7) Town Creek. The 200 yard portion of Town Creek lying i n Town Creek Colony as delineated by no wake zone markers. east of SR 1609, otherwise known as Clearview Lane in Town Creek Township, shore to shore from a point at 34.16788 N, 78.07139 W, north and east around a bend in the creek to a point at 34.16910 N, 78.07030 W;
- (8) Town of Oak Island. That part of Montgomery Slough, otherwise known as Big Davis Canal within the Town of Oak Island Creek, shore to shore from its starting with the entrance from at the Intracoastal Waterway at the end west of SW Yacht Drive SW at a point at 33.92145 N, 78.19408 W, to the canal end at NE 40th Street in the Town of Oak Island; and upstream to the canal end at 40th Street, NE.
- (9) Intracoastal Waterway in the Town of Sunset Beach, shore to shore from a point 150 yards east of the Sunset Boulevard South bridge at 33.88173 N, 78.50995 W, to a point 50 yards west of the bridge at 33.88111 N, 78.51194 W.
- (b) Speed Limit. No person shall operate any ~~motorboat or~~ vessel at greater than no-wake speed within any of the regulated areas described in Paragraph (a) of this Rule.
- (c) ~~Placement and Maintenance of Markers. Subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers, the~~ The following agencies are the designated ~~suitable~~ agencies for the placement and maintenance of markers implementing this Rule. Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:
- (1) The Board of Aldermen of Varnamtown ~~as to~~ for areas indicated in ~~Paragraph (a), Subparagraph (4)~~ Subparagraph (a)(1) of this Rule. Rule;
 - (2) The Board of Commissioners of Brunswick County ~~as to~~ for areas indicated in ~~Paragraph (a), Subparagraphs (2) – (8)~~ Subparagraphs (a)(2) – (8) of this Rule. Rule; and
 - (3) The North Carolina Wildlife Resources Commission for the area indicated in Subparagraph (a)(9) of this Rule.
- Authority G.S. 75A-3; 75A-15.*
- 15A NCAC 10F .0338 CALDWELL COUNTY**
- (a) Regulated Areas. This Rule applies ~~only~~ to the following waters ~~which lie within the boundaries of in~~ Caldwell County:
- (1) Catawba River, River;
 - (2) Lake Rhodhiss Rhodhiss; and
 - (3) Little Gunpowder Lake.
- (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 regulated areas described in Paragraph (a) of this Rule.
- (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 regulated areas described in Paragraph (a) of this Rule.
- (d) Specific Speed Zones. Lake Hickory within the boundaries of the City of Hickory. No one shall operate a vessel at greater than no-wake speed within 30 yards of the docks at the Lake Hickory Marina and Boat Rentals on Limbaugh Lane.
- ~~(d)(e)~~ 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 regulated areas described in Paragraph (a) of this Rule.
- ~~(e)(f)~~ Placement and Maintenance of Markers. The Board of Commissioners of Caldwell County ~~is designate d a suitable agency and the City of Hickory are the designated agencies 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 regulated areas described in Paragraph (a) of this Rule, 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 .0350 DURHAM AND WAKE COUNTIES

(a) ~~Definitions. In addition to the definitions set forth in Paragraph (b) of Rule .0301 of this Section, the following definitions apply for the purposes of this Rule:~~

- (1) ~~Corps—Corps of Engineers, United States Army;~~
- (2) ~~State Parks—Division of Parks and Recreation, N. C. Department of Environment, Health, and Natural Resources;~~
- (3) ~~Regulated Area—Those portions of Falls Lake located within the boundaries of Durham and Wake Counties.~~

(a) Regulated Areas. This Rule applies to the waters of Falls Lake in Durham and Wake counties.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed:

- (1) while within a designated mooring area established on the regulated area by or with the approval of the Corps and State Parks;
- (2) within 50 yards of any public boat launching ramp or boat service facility, including docks used for fueling or boat repair, located on the regulated area;
- (3) within 50 yards of any state road bridge crossing over ~~that~~ the portion of Falls Lake located within ~~the boundaries of~~ Wake County;
- (4) ~~within 50 yards of the area marked as the waters of the Holly Point Recreation Swim and boat launch area shore to shore, from a line at a point on the southwest shore at 35.99751 N, 78.66075 W to a point on the north shore at 36.00030 N, 78.65963 W, east to a line from a point on the southeast shore at 35.99941 N, 78.65520 W to a point on the northwest shore at 36.00087 N, 78.65731 W; and the New Light Road Bridge.~~ within 50 yards east and 50 yards west of the New Light Road bridge.
- (5) within 50 yards east and 50 yards west of the New Light Road bridge.

(c) Restricted Zones. No person operating or responsible for the operation of any vessel, surfboard or water skis shall permit the same is permitted to enter:

- (1) any marked swimming area located on the regulated area;
- (2) any areas near the dam structures located on the regulated area that ~~shall be~~ is marked against entry by vessels by or with the approval of the ~~Corps United States Army Corps of Engineers.~~ against entry by vessels.

(d) Placement and Maintenance of Markers. The Board of Commissioners of Durham County and the Board of Commissioners of Wake County are the designated suitable agencies for placement and maintenance of markers implementing this Rule within in their respective counties, subject to the approval of the Corps. United States Army Corps of Engineers. If these boards exercise their supervisory responsibilities, they may delegate the actual placement and maintenance of markers to some other responsible agency. With regard to marking of the regulated area described in Paragraph (a)

~~of this Rule, all of the Supplementary standards listed in Paragraph (g) of Rule .0301 of this Section shall apply.~~

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

* * * * *

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 .0308, .0315, .0335, .0340, .0349, .0359, .0367, .0372 and readopt with substantive changes the rules cited as 15A NCAC 10F .0302 and .0321.

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

Proposed Effective Date: *October 1, 2018*

Public Hearing:

Date: *February 6, 2018*

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 10 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: *March 19, 2018*

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

15A NCAC 10F .0302 ATLANTIC BEACH

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

- (1) the canals within the subdivisions of Atlantic Beach Isles and Sound View Isles within the town limits of Atlantic Beach; east of the Atlantic Beach Bridge in Sound View Isles subdivision, including the waters of Money Island Slough from its east entrance at 34.70187 N, 76.72941 W to its west entrance at 34.70237 N, 76.73271 W; and all canals west of the bridge including the canal west of North Shore 1 Drive;
- (2) the waters of Bogue Sound from the east side of Channel Bay Mobile Home Park running westerly to the west side of North Shore Mobile Home Park extending 55 yards from the shore; within 55 yards of the north shore of Channel Bay Mobile Home Park and North Shore Mobile Home Park;
- (3) the waters of Bogue Sound extending 50 yards on each side of the entrance to Hoop Pole Creek Bay and 50 yards on each side of the four boat ramps in Hoop Pole Creek Bay; from a point approximately 50 yards north of the entrance to Hoop Pole Creek Bay at 34.70319 N, 76.76904 W, to a line approximately 150 yards south of the entrance to Hoop Pole Creek Bay, shore to shore from a point on the east shore at 34.70178 N, 76.76757 W, to a point on the west shore at 34.70167 N, 76.76973 W, and within 50 yards of all boat ramps in Hoop Pole Creek Bay; and
- (4) the waters of Bogue Sound beginning at day markers #3PA (green) and #4PA (red) at green day marker 3 and red day marker 4 near the entrance to of the 8 ½ Marina Channel running to day markers #7PA (green) and #8PA (red)

~~extending the length of the canal to and 50 yards on each side of the boat ramp at 8 ½ Marina Village; and extending within the channel to a point 50 yards west of the boat ramp at 8 ½ Marina Village.~~

(b) Speed Limit. No person shall operate any ~~motorboat or~~ 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 Town of Atlantic Beach is the designated ~~as 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 .0308 CLAY COUNTY

(a) Regulated Areas. It is unlawful to operate any motorboat or vessel at greater than no-wake speed in the following areas on Chatuge Lake:

- (1) within 50 yards of the boat ramp at Ho Hum Campground;
- (2) the waters of Shooting Creek, from a line shore to shore 50 yards west of the High Bridge on NC Highway 175, to a line at the southeast end of Shooting Creek shore to shore, from a point at 35.01960 N, 83.72752 W; to a point at 35.01979 N, 83.72638 W;
- (3) within 50 yards of the Gibson Cove access area;
- (4) within 50 yards of the Chatuge Cove Marina;
- (5) that portion of the cove shore to shore, west of Cottage Court off of NC Highway 175, northeast of a line from a point on the east shore at 35.02576 N, 83.73784 W; to a point on the northwest shore at 35.02609 N, 83.73945 W;
- (6) within 50 yards of the Chatuge Dam Spillway access area; and
- (7) the waters of McCracken Cove.

(b) 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,~~ Director on the regulated area.

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

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

15A NCAC 10F .0315 POLK COUNTY

(a) Regulated Area. ~~The inlet of Lake Adger lying north of a line running from the end of the point on which Red Barn Landing is located South 69 degrees West (true) approximately 1,800 feet to the beach on the north side of said lake is designated as a "slow no wake" area. The waters of Lake Adger in the cove south of the Lake Adger Boating Access Area, west of a line from a~~

point on the north shore at 35.33578 N, 82.22780 W to a point on the south shore at 35.33422 N, 82.22774 W.

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

(c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Polk 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 .0321 PENDER COUNTY

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

- (1) the canal adjoining ~~Old Olde~~ Point ~~Development; Development in~~ Hampstead;
- (2) the First Finger Canal northeast of Godwin Drive in New Topsail Beach;
- (3) in the Town of Topsail Beach, ~~those the~~ 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 Beach 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 City for~~ the regulated area designated in ~~Subparagraph (5) of Paragraph (a)~~ Subparagraph (a)(5) 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 .0335 SWAIN COUNTY

(a) Regulated Area. This Rule applies ~~only to that portion of Fontana Lake which is located in Swain County.~~ to the waters of Fontana Lake within 50 yards of Almond Boat and RV Park at 1165 Almond Boat Park Road in Bryson City.

(b) Speed Limit ~~Near Boat Dock.~~ No person shall operate a vessel at greater than no wake speed within 50 yards of Almond Boat

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

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

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

15A NCAC 10F .0340 CURRITUCK COUNTY

(a) Regulated Areas. This Rule applies to the waters and portion of waters described as follows:

- (1) ~~Bell's Bell~~ Island. ~~The waters contained in all the All~~ canals on ~~Bell's Bell~~ Island.
- (2) ~~Walnut Island. Island~~ Subdivision. ~~The waters in all the canals~~ All canals in the Walnut Island subdivision in the Village of Grandy.
- (3) ~~Waterview Shores Subdivision. The waters in all the canals~~ subdivision. All canals in the Waterview Shores ~~subdivision subdivision~~ in the Village of Grandy. ~~The regulated area begins at the entrances to the subdivision from Dowdy Bay (Poplar Branch Bay) at 36.25148N, 75.87061W; 36.24981N, 75.87042W; and 36.24872N, 75.87055W.~~
- (4) ~~Neal's Creek Landing. Those The~~ waters of ~~Currituck Sound Neal's Creek~~ within 50 yards of Neal's Creek Landing ~~as delineated by appropriate markers.~~ at the end of SR 1133, otherwise known as Neals Creek Road.
- (5) ~~Tull's Tull~~ Bay.
 - (A) ~~Those The~~ waters of ~~Tull's Creek within the canal off of Tull Bay from its mouth to its end at Tulls Bay Marina, 50 yards upstream and 50 yards downstream of and within the canal leading to Tull's Bay Marina as delineated by appropriate markers.~~ Marina.
 - (B) ~~Those The~~ waters which constitute the canals of the ~~Tull's Tulls~~ Bay Colony subdivision in Moyock and including the waters 50 yards north along the Mississippi Canal from its intersection with Elizabeth Canal.

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

(c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Currituck 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 .0349 JOHN H. MOSS LAKE

(a) Regulated Area. This Rule applies to the Kings Mountain water supply reservoir known as ~~the~~ John H. Moss Lake ~~located Lake~~, in Cleveland County.

(b) Speed Limit Near Boat Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any boat launching area, dock, pier, marina, boat storage structure or boat service area located on the regulated area described in Paragraph (a) of this Rule.

(c) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked swimming area ~~established with the approval of the Executive Director, or his representative,~~ on the regulated area described in Paragraph (a) of this Rule.

(d) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of the City of Kings Mountain 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 of markers to some other responsible agency. 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 .0359 CHEROKEE COUNTY

(a) Regulated Areas. This Rule applies to the following ~~sections~~ waters of Hiawassee Hiawassee Lake:

- (1) the waters ~~within 50 yards of Hiawassee Hideaway Marina;~~ of the Duke's Hideaway Marina cove shore to shore, east of a line from a point on the north shore at 35.11989 N, 84.10420 W to a point on the south shore at 35.11902 N, 84.10386 W;
- (2) the waters ~~within 50 yards of Shook's Boat Dock;~~ of the Shooks Marina cove shore to shore, south of a line from a point on the northwest shore at 35.15458 N, 84.14425 W to a point on the southeast shore at 35.15457 N, 84.14296 W;
- (3) the waters ~~within 50 yards of Bear Paw Marina;~~ of the Mountain View Marina cove, shore to shore, west of a line from a point on the north shore at 35.15264 N to a point on the south shore at 35.15120 N, 84.16313 W;
- (4) the waters within 50 yards of TVA Boat Ramp at Micken's Branch; and the Tennessee Valley Authority boating access area at Micken Branch at 35.11890 N, 84.16806 W;
- (5) the waters ~~within 50 yards of Harbor Cove Marina;~~ of the Harbor Cove Marina cove, shore to shore, west of a line from a point on the north shore at 35.13899 N, 84.17592 W to a point on the south shore at 35.13771 N, 84.17593 W;

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

(c) Placement ~~and Maintenance~~ of Markers. The Cherokee County Board of Commissioners is the designated a suitable agency for the placement ~~and maintenance~~ of markers implementing this ~~Rule~~. Rule, subject to the authority of the Tennessee Valley Authority and the United States Army Corps of Engineers.

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

15A NCAC 10F .0367 HOKE COUNTY

(a) Regulated Area. This Rule applies to the waters of Rockfish Creek ~~at Camp Rockfish upstream from the Hoke-Cumberland county line within the territorial limits of Hoke County as delineated by appropriate markers,~~ shore to shore, from a line at a point on the north shore at 34.95415 N, 79.03833 W to a point on the south shore at 34.95372 N, 79.03865 W, eastward to a line from a point on the north shore at 34.95439 N, 79.03660 W to a point on the south shore at 34.95351 N, 79.03773 W.

(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 Hoke 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 .0372 HERTFORD COUNTY

(a) Regulated Areas. Area. This Rule applies to the ~~Chowan River within the territorial jurisdiction of Hertford County, in the area along the southern shoreline of the Chowan River, extending up to 600 feet in an easterly direction, and up to 1000 feet in a westerly direction, from the shore line terminus of State Road 1401 (Tuscarora Beach Road) at the site of the property commonly known as Tuscarora Beach, extending 200 feet toward the center of the Chowan River, as indicated by buoys,~~ portion of the Chowan River at Tuscarora Beach within 65 yards of the shoreline, from a point on the south shore at 36.39028 N, 76.91214 W to a point on the south shore at 36.38820 N, 76.90726 W.

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

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

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

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 readopt with substantive changes the rules cited as 15A NCAC 10H .0301-.0304.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless

the agency requests otherwise. The text of the rules are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

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

Proposed Effective Date: January 1, 2020

Public Hearing:

Date: February 6, 2018

Time: 10:30 a.m.

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

Reason for Proposed Action: *These rules are part of the 2016 periodic review. Subsections 10H .0301-.0304 are required to be readopted by July 2018. Because these subsections were revised and reorganized into a new section of Subchapter 10H (15A NCAC 10H .1400 – Wildlife Captivity and Rehabilitation), these rules will no longer be needed once the new Rules become effective.*

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: March 19, 2018

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 10H - REGULATED ACTIVITIES

SECTION .0300 - HOLDING WILDLIFE IN CAPTIVITY

15A NCAC 10H .0301 GENERAL REQUIREMENTS
15A NCAC 10H .0302 MINIMUM STANDARDS
15A NCAC 10H .0303 FORFEITURE
15A NCAC 10H .0304 CAPTIVE CERVID HERD CERTIFICATION PROGRAM

Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-272.6; 113-274.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 23 – IRRIGATION CONTRACTORS' LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Irrigation Contractors' Licensing Board intends to amend the rules cited as 21 NCAC 23 .0208 and .0503.

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

Proposed Effective Date: May 1, 2018

Public Hearing:

Date: February 21, 2018

Time: 10:00 a.m.-12:00 p.m.

Location: State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors, 1109 Dresser Court, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 23 .0208 is being proposed for amendment to provide clarification.

21 NCAC 23 .0503 is being proposed for amendment to be consistent with the governing statute.

Comments may be submitted to: Lisa Deubler, P.O. Box 41421, Raleigh, NC 27629; email info@nciclb.org

Comment period ends: March 19, 2018

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 ($\geq \$1,000,000$)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

SECTION .0200 - HEARING RULES OF THE NORTH CAROLINA IRRIGATION CONTRACTORS LICENSING BOARD

21 NCAC 23 .0208 COMPLAINT PROCESS

(a) Upon receipt of a complaint alleging misconduct or unlicensed practice that might subject a licensee or other person to discipline or upon notice of such otherwise coming to the Board's attention through investigatory means, the Board's Investigative Committee shall determine whether further investigation is necessary to resolve the complaint. If the Investigative Committee determines an investigation is necessary, the Board shall send a notice of complaint to the respondent.

(b) The complainant shall submit the complaint form online through the Board's website (<http://www.nciclb.org>) or by printing the form from the Board's website and mailing it to the Board office at P.O. Box 41421 Raleigh, N.C. 27629. The following information shall be included in the complaint form:

- (1) date of complaint;
- (2) complainant name;
- (3) complainant mailing address;
- (4) complainant contact number;
- (5) alleged violator name;
- (6) location of violation site, including city;
- (7) date alleged violation was noted;
- (8) how complainant became aware of alleged violation;
- (9) detailed description of the work being performed; and
- (10) statement that the information provided by the complainant is true and accurate to the best of his or her knowledge.

(c) The Board shall not respond to or investigate anonymous complaints or inquiries.

(d) The Board shall administratively close any complaint that:

- (1) is anonymously submitted;
- (2) is withdrawn by the complainant at any stage of the investigation; or
- (3) is submitted more than two years after the irrigation system was ~~completed~~. completed by a licensee of this Board.

(e) After reviewing the investigation into the complaint, the Investigative Committee shall:

- (1) find that there is probable cause to believe a violation occurred and send the respondent a notice of violation; or

- (2) find that there is no probable cause to believe a violation occurred and send the respondent and complainant notification of the same.

(f) If a complaint is resolved through a settlement agreement, the Investigative Committee shall present the proposed settlement agreement to the Board, but shall not identify the parties to the settlement to the full Board except by descriptive titles, such as licensee or other persons. The Board shall either vote to approve the settlement agreement or vote to reject the settlement agreement. If the Board approves the settlement agreement, the Board shall notify the respondent and complainant and shall close the case upon satisfaction of all terms in the settlement agreement.

(g) If a settlement agreement is not reached or if the Board votes to reject a proposed settlement agreement, the Board shall serve the respondent with a notice of hearing and shall conduct a hearing in accordance with the rules of this Section and as required by G.S. 150B, Article 3A.

Authority G.S. 89G-5; 150B.

SECTION .0500 - IRRIGATION SYSTEM INSTALLATION MINIMUM STANDARDS

21 NCAC 23 .0503 WATER SUPPLY

(a) Before commencing installation, an irrigation contractor shall verify that the point of connection, water supply, flow rate, and static and dynamic pressures meet design criteria.

(b) All new irrigation systems that have a pressurized water supply under continuous pressure must include an isolation valve. The isolation valve's location must be in the main line before the first zone valve or quick coupler.

(c) On all new installations, if a master valve is used, it shall be installed on the discharge side of the backflow prevention device.

(d) If the water supply is potable water, an irrigation contractor shall verify that a backflow prevention device is installed upstream of the irrigation system before pressurizing the irrigation mainline.

(e) For local government water systems and large community water systems, an irrigation contractor shall, when required by local code, install a separate meter for new in-ground systems on lots platted and recorded after July 1, 2009, in the office of the register of deeds in the county or counties in which the real property is located. This Rule shall not apply to lots with privately owned septic tanks systems or other types of privately owned innovative on-site wastewater systems if a lockable cutoff valve approved by the water system and a testable backflow prevention device approved by the water system for the appropriate level of risk associated with the irrigation system or other identified risk are installed on the water supply line for the irrigation system. The lockable cutoff valve shall be installed on the water supply line for the irrigation system within 24 inches of the water meter and the testable backflow device shall be installed on the water supply line for the irrigation system

Authority G.S. 89G-5; 143-355.4.

CHAPTER 57 – APPRAISAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Appraisal Board intends to adopt the rules cited as 21 NCAC 57D .0501-.0503, amend the rules cited as 21 NCAC 57A .0204, .0405; 57B .0101-.0103, .0613; 57D .0202, readopt with substantive changes the rules cited as 21 NCAC 57D .0303, .0311, and readopt without substantive changes the rule cited as 21 NCAC 57C .0101.

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.ncappraisalboard.org

Proposed Effective Date: July 1, 2018

Public Hearing:

Date: April 24, 2018

Time: 9:00 a.m.

Location: North Carolina Appraisal Board, 5830 Six Forks Road, Raleigh, NC 27609

Reason for Proposed Action: G.S. 93E-2-4(i) requires the Appraisal board to adopt rules regarding payment of customary and reasonable fees paid by appraisal management companies to appraisers. The three rules for adoption, 21 NCAC 57D .0501-.0503, refer to the federal law, define market area, and require the company to maintain records. 21 NCAC 57D .0303 was identified as necessary with substantial interest during the Board's Periodic Review Process. The only change to the rule is to correct a typographical error in the Board's website. 21 NCAC 57A .0405 would require appraisers to state their appraisal fee on the report in certain circumstances. Current rules prohibit an appraisal management company from directing an appraiser to remove the fee from the report; this rule would make it clear that appraisers are required to state their fee, so management companies could not remove appraisers from their panels for doing so.

21 NCAC 57C .0101 and 21 NCAC 57D .0311 were identified as necessary with substantial interest during the Board's Periodic Review Process. No change is proposed for 21 NCAC 57C .0101. The changes to 21 NCAC 57D .0311 would require appraisal management companies to remove appraises from its panel only for cause, and not in retaliation for an appraiser filing a complaint against the company. For continuing education, it was not clear in the existing rule that any course taken online for continuing education credit must comply with 21 NCAC 57B .0603(6). For qualifying education, the proposed rules would allow all such education to be taken online, as potential students are noting that there is a lack of live classes offered throughout the state. Regarding payment of fees by the provider, the current process is that providers upload a roster to the Board's database, but the education is not posted until the provider makes the payment required pursuant to G.S. 93E-1-7. The proposed rule would allow the continuing education credit to be entered into the student's record immediately and give the provider thirty days to

send in the required fee. The AMC renewal rule would allow the Board to require payment of the federally required AMC National Registry fee, which must be collected on an annual basis, as a condition of renewal

Comments may be submitted to: Roberta Ouellette, North Carolina Appraisal Board, 5830 Six Forks Road, Raleigh, NC 27609; phone (919) 870-4854; fax (919) 870-4859; email Roberta@ncab.org

Comment period ends: April 24, 2018 at 9:00 a.m.

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)

**SUBCHAPTER 57A – REGISTRATION, LICENSING,
CERTIFICATION AND PRACTICE**

**SECTION .0200 – TRAINEE REGISTRATION AND
APPRAISER LICENSING AND CERTIFICATION**

21 NCAC 57A .0204 CONTINUING EDUCATION

(a) All registered trainees, real estate appraiser licensees, and certificate holders shall, upon the renewal of their registration, license, or certificate in every odd-numbered year, present evidence satisfactory to the Board of having obtained continuing education as required by this Section. Trainees and appraisers who initially registered with the Board after January 1 of an odd numbered year are not required to show continuing education credit for renewal of their registration in that odd numbered year.

(b) Each trainee, licensee, and certificate holder who must complete continuing education pursuant to Paragraph (a) of this Rule must complete 28 hours of continuing education before June 1 of every odd numbered year. Except as provided in Paragraphs (g) and (h) of this Rule, such education must have been obtained

by taking courses approved by the Board for continuing education purposes, at schools approved by the Board to offer such courses. Such education must relate to real estate appraisal and must contribute to the goal of improving the knowledge, skill and competence of trainees, and licensed and certified real estate appraisers. There is no exemption from the continuing education requirement for trainees or appraisers whose status has been upgraded to the level of licensed residential, certified residential, or certified general appraiser since the issuance or most recent renewal of their registration, license, or certificate, and courses taken to satisfy the requirements of a higher level of certification shall not be applied toward the continuing education requirement. Trainees, licensees, and certificate holders shall not take the same continuing education course more than once during the two year continuing education cycle.

(c) Each appraisal continuing education course must involve a minimum of three and one-half classroom hours of instruction on real estate appraisal or related topics such as the application of appraisal concepts and methodology to the appraisal of various types of property; specialized appraisal techniques; laws, rules or guidelines relating to appraisal; standards of practice and ethics; building construction; financial or investment analysis; land use planning or controls; feasibility analysis; statistics; accounting; or similar topics. The trainee, licensee, or certificate holder must have attended at least 90 percent of the scheduled classroom hours for the course in order to receive credit for the course.

(d) Each trainee, licensee, and certificate holder who is required to complete continuing education pursuant to Paragraph (a) of this Rule must, as part of the 28 hours of continuing education required in Paragraph (b) of this Rule, complete the seven hour National USPAP update course between October 1 of an odd-numbered year and June 1 of an even numbered year, as required by the Appraiser Qualifications Board of the Appraisal Foundation, or its equivalent. USPAP is updated every even numbered year, and each trainee, licensee, and certificate holder shall take the most recent USPAP update course prior to June 1 of every even numbered year.

(e) A trainee, licensee, or certificate holder who elects to take approved continuing education courses in excess of the requirement shall not carry over into the subsequent years any continuing education credit.

(f) Course sponsors must provide a certificate of course completion to each trainee, licensee, and certificate holder successfully completing a course. In addition, course sponsors must send directly to the Board a certified roster of all who successfully completed the course. This roster must be sent within 15 days of completion of the course, but not later than June 15 of each year. In order to renew a registration, license, or certificate in a timely manner, the Board must receive proof of satisfaction of the continuing education requirement prior to processing a registration, license, or certificate renewal application. Proof of satisfaction shall be made by receipt of a roster from a school or course sponsor showing the courses completed by the applicant or by submission of an original certificate of course completion. If proof of having satisfied the continuing education requirement is not provided, the registration, license, or certificate shall expire and the trainee, licensee, or certificate holder shall be subject to the provisions of Rules .0203(e) and .0206 of this Section.

(g) A current or former trainee, licensee, or certificate holder may request that the Board grant continuing education credit for a course taken by the trainee, licensee, or certificate holder that is not approved by the Board, or for appraisal education activity equivalent to a Board-approved course, by making such request and submitting a non-refundable fee of fifty dollars (\$50.00) as set out in G.S. 93E-1-8(d) for each course or type of appraisal education activity to be evaluated. Continuing education credit for a non-approved course shall be granted only if the trainee, licensee, or certificate holder provides satisfactory proof of course completion and the Board finds that the course satisfies the requirements for approval of appraisal continuing education courses with regard to subject matter, course length, instructor qualifications, and student attendance. Online courses shall satisfy the provisions of 21 NCAC 57B .0603(6). Appraisal education activities for which credit may be awarded include teaching appraisal courses, authorship of appraisal textbooks, and development of instructional materials on appraisal subjects. Up to 14 hours of continuing education credit may be granted in each continuing education cycle for participation in appraisal education activities. Trainees or licensed or certified appraisers who have taught an appraisal course or courses approved by the Board for continuing education credit are deemed to have taken an equivalent course and are not subject to the fee prescribed in G.S. 93E-1-8 (d), provided they submit verification satisfactory to the Board of having taught the course(s). A trainee, licensee, or certificate holder who teaches a Board-approved continuing education course may not receive continuing education credit for the same course more than once every two years, regardless of how often he or she teaches the course. Requests for equivalent approval for continuing education credit must be received before June 15 of an odd-numbered year to be credited towards the continuing education requirement for that odd-numbered year. Equivalent approval shall be granted only for courses that are 7 hours or longer, and shall only be granted for a minimum of 7 hours.

(h) A trainee, licensee, or certificate holder may receive continuing education credit by taking any of the Board-approved precertification courses, other than Basic Appraisal Principles and Basic Appraisal Procedures, or their approved equivalents. Trainee, licensees, and certificate holders who wish to use a precertification course for continuing education credit must comply with the provisions of 21 NCAC 57B .0604.

(i) A licensee or certificate holder who resides in another state, is currently credentialed in another state, and is active on the National Registry in another state may satisfy the requirements of this Section, other than the seven hour National USPAP update course requirement in Paragraph (d) of this Rule, by providing a current letter of good standing from another state showing that the licensee or certificate holder has met all continuing education requirements in the other state. A licensee or certificate holder who became licensed in North Carolina by licensure or certification with another state and now resides in North Carolina may renew by letter of good standing for his or her first renewal as a resident of North Carolina only if the appraiser moved to North Carolina on or after January 1 of an odd numbered year. If an appraiser was a resident of this state before January 1 of an odd-numbered year, the appraiser must comply with the

requirements of this section regardless of how the license or certificate was obtained.

(j) A trainee, licensee, or certificate holder who returns from active military duty on or after February 1 of an odd-numbered year is allowed to renew his or her registration, license, or certificate in that odd-numbered year even if the required continuing education is not completed before June 1 of that year. All required continuing education must be completed within 180 days of when the trainee, licensee, or certificate holder returns from active duty. Failure to complete the required continuing education within 180 days is grounds for revocation. This Rule applies to an individual who is serving in the armed forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return.

Authority G.S. 93B-15; 93E-1-7(a); 93E-1-10.

SECTION .0400 – GENERAL APPRAISAL PRACTICE

21 NCAC 57A .0405 APPRAISAL REPORTS

(a) Each written appraisal report prepared by or under the supervision of a licensed or certified real estate appraiser shall bear the signature of the licensed or certified appraiser, the license or certificate number of the licensee or certificate holder in whose name the appraisal report is issued, and the designation "licensed residential real estate appraiser," "certified residential real estate appraiser," or "certified general real estate appraiser," as applicable. Each such appraisal report shall also indicate whether or not the licensed or certified appraiser has personally inspected the property, and shall identify any other person who assists in the appraisal process other than by providing clerical assistance. Such identification must be placed in the body of the report. Appraisers shall personally affix their signature to their appraisal reports and shall not allow any other person or entity to affix their signature. Trainees are not required to affix their signatures to appraisal reports, but if they do so, they must personally affix their signature and shall not allow any other person or entity to affix their signature. Trainees and appraisers shall sign their reports with the same name and in the same manner as it printed on their pocket cards.

(b) Every licensed and certified real estate appraiser shall affix or stamp to all appraisal reports a seal which shall set forth the name and license or certificate number of the appraiser in whose name the appraisal report is issued and shall identify the appraiser as a "licensed residential real estate appraiser", a "certified residential real estate appraiser", or as a "certified general real estate appraiser", as applicable. The seal must be legible, must conform to the seal authorized by the Board at time of initial licensure or certification, and must be a minimum of 1 inch in diameter. Appraisers shall personally affix their seal to their appraisal reports and shall not allow any other person or entity to affix their seal. Registered trainees are prohibited from using a seal on appraisal reports.

(c) A licensed or certified real estate appraiser who signs an appraisal report prepared by another person, in any capacity, is responsible for the content and conclusions of the report.

(d) A written appraisal report shall be issued on all real estate appraisals performed in connection with federally related transactions.

(e) Appraisers shall keep a log of all appraisals performed. The log shall contain the appraiser's license or certificate number, the street address of the subject property, the date the report was signed, the name of anyone assisting in the preparation of the report and the name of the client. These logs shall be updated at least every 30 days.

(f) Any appraiser who signs an appraisal report is entitled to make or retain a copy of that appraisal report, as long as the copy is made at the time the report is prepared. Any appraiser who signs an appraisal report must be given a copy of the appraisal report and the work file upon request for the purpose of submission of the report and work file to the Appraisal Board, compliance with due process of law, such as a subpoena, submission to a peer review committee, or in accordance with retrieval arrangements made by the appraiser and the person or entity retaining the report and work file.

(g) Appraisal reports transmitted electronically to clients shall be sent in a secure format, such as Adobe PDF.

(h) For an appraisal of a one to four family residential dwelling, an appraiser shall state the amount of the fee paid to the appraiser for the assignment in the body of the appraisal report.

Authority G.S. 93E-1-10.

SUBCHAPTER 57B - REAL ESTATE APPRAISAL EDUCATION

SECTION .0100 - COURSES REQUIRED FOR REGISTRATION, LICENSURE AND CERTIFICATION

21 NCAC 57B .0101 REGISTERED TRAINEE COURSE REQUIREMENTS

(a) Each applicant for registration as a trainee shall complete a minimum of 90 hours of precertification education, consisting of the following:

- (1) Thirty hours in Basic Appraisal Principles;
- (2) Thirty hours in Basic Appraisal Procedures;
- (3) Fifteen hours in Residential Market Analysis and Highest and Best Use or 30 hours in General Appraiser Market Analysis and Highest and Best Use; and
- (4) A minimum of Fifteen hours in The Uniform Standards of Professional Appraisal Practice (USPAP).

(b) Credit for these courses shall be earned from a Board-approved course sponsor or school and all course content shall be approved by the Appraisal Board in accordance with the rules in this Subchapter. These courses shall be completed within the five-year period immediately preceding the date when application for registration is made to the by the applicant.

(c) Basic Appraisal Principles shall be a prerequisite to taking Basic Appraisal Procedures, and Basic Appraisal Procedures shall be a prerequisite to taking either Residential or General Market Analysis and Highest and Best Use. The 15 hour USPAP course may be taken any time after the successful completion of Basic Appraisal Procedures.

~~(d) These four courses shall be obtained in a classroom setting. No credit shall be given for these courses taken by any other~~

~~method, such as correspondence school courses or on-line courses.~~

~~(e)(d)~~ Before the application may be granted by the Board, the applicant shall complete the trainee supervision supervisor course developed by the North Carolina Appraisal Board as set forth in 21 NCAC 57A .0407(d).

Authority G.S. 93E-1-6(a); 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0102 LICENSED RESIDENTIAL AND CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER COURSE REQUIREMENTS

(a) Each applicant for licensure as a licensed residential real estate appraiser or for certification as a certified residential real estate appraiser shall complete a minimum of 200 hours of qualifying education, consisting of the following:

- (1) A minimum of 30 hours in basic appraisal principles;
- (2) A minimum of 30 hours in basic appraisal procedures;
- (3) a minimum of 15 hours in residential market analysis and highest and best use;
- (4) A minimum of 15 hours in Residential Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 30 Hours in Residential Sales Comparison and Income Approaches;
- (6) A minimum of 15 hours in Residential Report Writing and Case Studies;
- (7) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP);
- (8) A minimum of 15 hours in Statistics, Modeling and Finance;
- (9) A minimum of 15 hours in Advanced Residential Applications and Case Studies; and
- (10) A minimum of 20 hours of appraisal subject matter electives.

Credit for these courses must be earned from a Board-approved course sponsor or school.

(b) An applicant who is currently registered with the Board as a trainee shall satisfy the educational requirements to become a licensed or certified residential real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in Residential Appraiser Site Valuation and Cost Approach;
- (2) A minimum of 30 Hours in Residential Sales Comparison and Income Approaches;
- (3) A minimum of 15 hours in Residential Report Writing and Case Studies;
- (4) A minimum of 15 hours in Statistics, Modeling and Finance;
- (5) A minimum of 15 hours in Advanced Residential Applications and Case Studies; and
- (6) A minimum of 20 hours of appraisal subject matter electives.

(c) An applicant who was licensed as a licensed residential appraiser before January 1, 2015 shall satisfy the educational requirements to become a certified residential real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in Statistics, Modeling and Finance;
- (2) A minimum of 15 hours in Advanced Residential Applications and Case Studies; and
- (3) A minimum of 20 hours of appraisal subject matter electives.

(d) An applicant who is not currently registered by the Board as a trainee or who is not currently licensed by the Board as a licensed residential real estate appraiser must have completed all required courses no earlier than January 1, 2008.

(e) An applicant who is currently registered by the Board as a trainee or who is currently licensed by the Board as a licensed residential real estate appraiser must have completed all courses required beyond those required for his current registration, license, or certification no earlier than January 1, 2008.

~~(f) The Basic Appraisal Principles, Basic Appraisal Procedures, Residential Market Analysis, USPAP, and Residential Sales Comparison and Income Approach classes must have been obtained in a classroom setting. All other courses in this section may be taken on-line via the Internet.~~

Authority G.S. 93E-1-6(b); 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0103 CERTIFIED GENERAL REAL ESTATE APPRAISER COURSE REQUIREMENTS

(a) An applicant for certification as a certified general real estate appraiser shall complete the following precertification courses;

- (1) A minimum of 30 hours in Basic Appraisal Principles;
- (2) A minimum of 30 hours in Basic Appraisal Procedures;
- (3) A minimum of 30 hours in General Appraiser Market Analysis and Highest and Best Use;
- (4) A minimum of 15 hours in Statistics, Modeling and Finance;
- (5) A minimum of 30 hours in General Appraiser Sales Comparison Approach;
- (6) A minimum of 30 hours in General Appraiser Site Valuation and Cost Approach;
- (7) A minimum of 60 hours in General Appraiser Income Approach;
- (8) A minimum of 30 hours in General Appraiser Report Writing and Case Studies;
- (9) A minimum of 30 hours of appraisal subject matter electives; and
- (10) A minimum of 15 hours in The Uniform Standards of Professional Appraisal Practice (USPAP).

Credit for all courses must be earned from a Board-approved course sponsor or school, and all courses shall comply with the course content standards prescribed in Rule .0302 of this Subchapter.

(b) An applicant who is currently registered with the Board as a trainee shall satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 30 hours in General Appraiser Market Analysis and Highest and Best Use;

- (2) A minimum of 15 hours in Statistics, Modeling and Finance;
- (3) A minimum of 30 hours in General Appraiser Sales Comparison Approach;
- (4) A minimum of 30 hours in General Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 60 hours in General Appraiser Income Approach; and
- (6) A minimum of 30 hours in General Appraiser Report Writing and Case Studies; and
- (7) A minimum of 30 hours of appraisal subject matter electives.

(c) An applicant who is currently licensed with the Board as a licensed residential real estate appraiser shall satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in General Appraiser Market Analysis and Highest and Best Use;
- (2) A minimum of 15 hours in Statistics, Modeling and Finance;
- (3) A minimum of 15 hours in General Appraiser Sales Comparison Approach;
- (4) A minimum of 15 hours in General Appraiser Site Valuation and Cost Approach;
- (5) A minimum of 45 hours in General Appraiser Income Approach;
- (6) A minimum of 15 hours in General Appraiser Report Writing and Case Studies; and
- (7) A minimum of 30 hours of appraisal subject matter electives.

(d) An applicant who is currently certified with the Board as a certified residential real estate appraiser shall satisfy the educational requirements to become a general real estate appraiser by completing the following education:

- (1) A minimum of 15 hours in General Appraiser Market Analysis and Highest and Best Use;
- (2) A minimum of 15 hours in General Appraiser Sales Comparison Approach;
- (3) A minimum of 15 hours in General Appraiser Site Valuation and Cost Approach;
- (4) A minimum of 45 hours in General Appraiser Income Approach; and
- (5) A minimum of 10 hours in General Appraiser Report Writing and Case Studies.

(e) An applicant who is not currently registered by the Board as a trainee or who is not currently licensed or certified by the Board as a licensed residential or certified residential real estate appraiser must have completed all the required courses no earlier than January 1, 2008.

(f) An applicant who is currently registered by the Board as a trainee or who is not currently licensed or certified by the Board as a licensed residential or certified residential real estate appraiser must have completed all courses required beyond those required for his current registration, licensure or certification no earlier than January 1, 2008.

~~(g) The Basic Appraisal Principles, Basic Appraisal Procedures, USPAP, and General Appraiser Income Approach classes must have been obtained in a classroom setting. All other courses in this section may be taken on-line via the Internet.~~

Authority G.S. 93E-1-6(c); 93E-1-8(a); 93E-1-10.

SECTION .0600 - CONTINUING EDUCATION COURSES

21 NCAC 57B .0613 PAYMENT OF FEE REQUIRED BY G.S. 93E-1-7(C)

Schools and course sponsors who are required by G.S. 93E-1-7 to pay a fee to the Board for each licensee completing an approved continuing education course conducted by the school or course sponsor shall remit the fee to the Board ~~along with the roster and evaluations required by Rule .0606(10) and .0608 of this Subchapter, within 30 days after the date the course is completed.~~

Authority G.S. 93E-1-8(c),(d); 93E-1-10.

SUBCHAPTER 57C – ADMINISTRATIVE LAW PROCEDURES

SECTION .0100 – APPRAISAL BOARD HEARINGS

21 NCAC 57C .0101 FORM OF COMPLAINTS AND OTHER PLEADINGS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

SUBCHAPTER 57D – APPRAISAL MANAGEMENT COMPANIES

SECTION .0200 – APPRAISAL MANAGEMENT COMPANY REGISTRATION

21 NCAC 57D .0202 REGISTRATION RENEWAL

(a) All registrations ~~shall~~ expire on ~~June 30, 2012 and every~~ June 30 of each year ~~thereafter~~ unless renewed before that time. The renewal period shall be from May 1 through June 30 of each year.

(b) A holder of an appraisal management company registration desiring the renewal of such registration shall apply in writing upon the form provided by the Board and shall forward the renewal fee. The renewal fee shall be two thousand dollars (\$2000). The renewal fee is not refundable under any circumstances.

(c) In addition to the renewal fee, an appraisal management company shall submit with its renewal the annual appraisal management company fee required by the Appraisal Subcommittee pursuant to 12 C.F.R. 1102.402.

~~(e)(d)~~ Any company who acts or holds itself out as a registered appraisal management company while its appraisal management company registration is expired is subject to disciplinary action and penalties as prescribed in G.S. 93E-2-8 and G.S. 93E-2-10.

Authority G.S. 93E-2-3; 93E-2-6.

SECTION .0300 – APPRAISAL MANAGEMENT COMPANY PROCEDURES

21 NCAC 57D .0303 COMPLIANCE MANAGER

(a) A compliance manager shall be designated with the Board for each appraisal management company. The compliance manager

shall be a certified real estate appraiser certified under Article I of this chapter or in another state.

(b) An appraisal management company shall file an application with the Board for approval of the designated compliance manager. This application shall provide the Board with information such as the compliance manager's name, mailing and physical address, and phone and email contact information, and shall be signed by the designated compliance manager. The application may be accessed at the Board's website at www.ncappraisalboard.org.

(c) The designated compliance manager shall obtain a criminal records check pursuant to 93E-2-11. Applicants shall pay all required fees to perform the check. This records check shall have been performed within 60 days of the date the completed application is received by the Board. The criminal records check results must be attached to the application for approval as a compliance manager.

(d) The designated compliance manager is responsible for:

- (1) the notification to the Board of any change of trade name or contact information of the appraisal management company and the registration of any assumed business name adopted by the appraisal management company for its use;
- (2) the retention and maintenance of records relating to appraisals conducted by or on behalf of the appraisal management company;
- (3) the maintenance of a record of all appraisers in North Carolina who perform appraisals for the appraisal management company, including a log of payments to appraisers; and
- (4) the conduct of advertising of appraisal management services by or in the name of the appraisal management company;

(e) If an appraisal management company intends to change its compliance manager, it must submit an application for approval of the new compliance manager at least 10 business days before the effective date of the change. The form may be accessed at the Board's website at www.ncappraisalboard.org.

(f) If a compliance manager leaves the appraisal management company and the company is unable to give at least 10 days' notice of the change, the company shall have 15 business days from the date the compliance manager leaves to obtain a new compliance manager.

Authority G.S. 93E-2-3; 93E-2-4(b); 93E-2-5.

21 NCAC 57D .0311 REMOVAL OF AN APPRAISER FROM AN APPRAISAL PANEL

(a) If an appraisal management company decides to remove an independent appraiser from its list of qualified appraisers, the appraisal management company shall notify the appraiser in writing of the reason for removal.

(b) Such notice shall be sent to the appraiser by any established method that provides proof of delivery, including but not limited to registered mail, return receipt requested.

(c) If applicable, the notice shall include a description of the appraiser's illegal conduct, substandard performance, or otherwise

improper or unprofessional behavior, or of any violation of the Uniform Standards of Professional Appraisal Practice or state licensing standards.

(d) The appraisal management company shall also notify the appraiser of any dispute resolution process that it may have in place through which the appraiser may dispute the removal.

(e) An appraisal management company shall not remove an appraiser from its panel in retaliation for the appraiser filing a complaint against the company.

Authority G.S. 93E-2-3; 93E-2-7(a).

SECTION .0500 – CUSTOMARY AND REASONABLE FEES

21 NCAC 57D .0501 GENERAL PROVISIONS

For appraisal assignments of property in North Carolina as defined in G.S. 93E 2-4(i), an appraisal management company shall compensate fee appraisers in accordance with the provisions of 15 U.S.C. 1601 et seq and 12 C.F.R. 1026.42.

Authority G.S. 93E-2-4(i).

21 NCAC 57D .0502 DEFINITION OF MARKET AREA

For the purposes of this Section, market area shall be identified by county or by metropolitan statistical area (MSA), as defined by the North Carolina Office of State Budget and Management at https://ncosbm.s3.amazonaws.com/s3fs-public/demog/cbsa_list.html.

Authority G.S. 93E-2-4(i).

21 NCAC 57D .0503 RECORDS

An appraisal management company shall retain all records and documents supporting its determination of customary and reasonable fees in a market area and shall produce such records at the request of the Appraisal Board pursuant to 21 NCAC 57D .0308. Such data shall be retained for a period of at least five years after the appraisal assignment was completed.

Authority G.S. 93E-2-4(i).

CHAPTER 58 – REAL ESTATE COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Real Estate Commission intends amend the rules cited as 21 NCAC 58A .0109 and .0502.

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

Proposed Effective Date: July 1, 2018

Public Hearing:

Date: February 14, 2018

Time: 9:00 a.m.

Location: 1313 Navaho Drive, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 58A .0109 – Brokerage Fees and Compensation
The Commission granted the rule-making petition of Glenn Wallace concerning this Rule and is initiating rule-making as the result of the petition.
The Commission does not endorse the proposed text.

21 NCAC 58A .0502 – Firm Licensing
The Commission granted the rule-making petition of Glenn Wallace concerning this Rule and is initiating rule-making as the result of the petition.
The Commission does not endorse the proposed text.

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

Comment period ends: *March 19, 2018*

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

Fiscal impact (check all that apply).

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

SUBCHAPTER 58A – REAL ESTATE BROKERS

SECTION .0100 - GENERAL BROKERAGE

21 NCAC 58A .0109 BROKERAGE FEES AND COMPENSATION

- (a) A licensee shall not receive, either directly or indirectly, any commission, rebate or other valuable consideration of more than nominal value from a vendor or a supplier of goods and services for an expenditure made on behalf of the licensee's principal in a real estate transaction without the written consent of the licensee's principal.
- (b) A licensee shall not receive, either directly or indirectly, any commission, rebate, or other valuable consideration of more than nominal value for services which the licensee recommends,

procures, or arranges relating to a real estate transaction for a party, without full and timely disclosure to such party.

(c) In a real estate sales transaction, a broker shall not receive any compensation, incentive, bonus, rebate, or other consideration of more than nominal value:

- (1) from his principal unless the compensation, incentive, bonus, rebate, or other consideration is provided for in a written agency contract prepared in conformity with the requirements of 21 NCAC 58A .0104.
- (2) from any other party or person unless the broker provides full and timely disclosure of the incentive, bonus, rebate, or other consideration, or the promise or expectation thereof to the broker's principal. The disclosure may be made orally, but must be confirmed in writing before the principal makes or accepts an offer to buy or sell.

(d) Full disclosure shall include a description of the compensation, incentive, bonus, rebate, or other consideration including its value and the identity of the person or party by whom it will or may be paid. A disclosure is timely when it is made in sufficient time to aid a reasonable person's decision-making.

(e) Nothing in this rule shall be construed to require a broker to disclose to a person not his principal the compensation the broker expects to receive from his principal or to disclose to his principal the compensation the broker expects to receive from the broker's employing broker. For the purpose of this Rule, nominal value means of insignificant, token, or merely symbolic worth.

(f) The Commission shall not act as a board of arbitration and shall not compel parties to settle disputes concerning such matters as the rate of commissions, the division of commissions, pay of brokers, and similar matters.

(g) Except as provided in (h) and (i) of this rule, a licensee shall not undertake in any manner, any arrangement, contract, plan or other course of conduct, to compensate or share compensation with unlicensed persons or entities for any acts performed in North Carolina for which licensure by the Commission is required.

(h) A broker or unlicensed person may pay or promise to pay consideration to the operator of a website or virtual platform which is designed to connect unlicensed consumers to licensed brokers who have agreed to provide real estate services to unlicensed consumers at pre-determined prices if:

- (1) the payment of consideration is made on a per-transaction basis;
- (2) the payment of consideration is contingent upon the successful closing of a real estate transaction;
- (3) the payment of the consideration is made at the time of closing of the successful real estate transaction.

~~(h)(i)~~ A broker may pay or promise to pay consideration to a travel agent in return for procuring a tenant for a vacation rental as defined by the Vacation Rental Act if:

- (1) the travel agent only introduces the tenant to the broker, but does not otherwise engage in any activity which would require a real estate license;

- (2) the introduction by the travel agent is made in the regular course of the travel agent's business; and
- (3) the travel agent has not solicited, handled or received any monies in connection with the vacation rental.

For the purpose of this Rule, a travel agent is any person or entity who is primarily engaged in the business of acting as an intermediary between persons who purchase air, land, and ocean travel services and the providers of such services. A travel agent is also any other person or entity who is permitted to handle and sell tickets for air travel by the Airlines Reporting Corporation (ARC). Payments authorized hereunder shall be made only after the conclusion of the vacation rental tenancy. Prior to the creation of a binding vacation rental agreement, the broker shall provide a tenant introduced by a travel agent a written statement advising him or her to rely only upon the agreement and the broker's representations about the transaction. The broker shall keep for a period of three years records of a payment made to a travel agent including records identifying the tenant, the travel agent and their addresses, the property and dates of the tenancy, and the amount paid.

~~(4)(j)~~ Nothing in this Rule shall be construed to permit a licensee to accept any fee, kickback or other valuable consideration that is prohibited by the Real Estate Settlement Procedures Act (12 USC 2601 et. seq.) or any rules and regulations promulgated by the United States Department of Housing and Urban Development pursuant to said Act or to fail to make any disclosure required by said Act or rules.

Authority G.S. 93A-3(c); 93A-6(a)(1); 93A-6(a)(4).

SECTION .0500 – LICENSING

21 NCAC 58A .0502 FIRM LICENSING

(a) Every business entity other than a sole proprietorship and a website or virtual platform which is designed to connect unlicensed consumers to licensed brokers who have agreed to provide real estate services to unlicensed consumers at pre-determined prices if (1) the payment of consideration is made on a per-transaction basis, (2) the payment of consideration is contingent upon the successful closing of a real estate transaction, and (3) the payment of the consideration is made at the time if the closing of the successful real estate transaction, shall apply for and obtain from the Commission a firm license prior to engaging in business as a real estate broker.

(b) An entity that changes its business form other than by conversion shall submit a new firm license application upon making the change and obtain a new firm license. An entity that converts to a different business entity in conformity with and pursuant to applicable North Carolina General Statutes shall not be required to apply for a new license. However, such converted entity shall provide the information required by this Rule in writing to the Commission within 10 days of the conversion and shall include the duplicate license fee pursuant to Rule .0101(c) of this Subchapter.

(c) Firm license application forms shall be available on the Commission's website or upon request to the Commission and shall require the applicant to set forth:

- (1) the legal name of the entity;
- (2) the name under which the entity will do business;
- (3) the type of business entity;
- (4) the address of its principal office;
- (5) the entity's NC Secretary of State Identification Number if it is required to be registered with the Office of the NC Secretary of State;
- (6) each federally insured depository institution lawfully doing business in this State where the entity's trust account(s) will be held, if applicable;
- (7) the name, real estate license number, and signature of the proposed qualifying broker for the firm;
- (8) the address of and name of the proposed broker-in-charge for each office as defined in Rule .0110(a) of this Subchapter, along with a completed broker-in-charge designation form described in Rule .0110(f) of this Subchapter for each proposed broker-in-charge;
- (9) any past criminal conviction of and any pending criminal charge against any principal in the company or any proposed broker-in-charge;
- (10) any past revocation, suspension, or denial of a business or professional license of any principal in the company or any proposed broker-in-charge;
- (11) if a general partnership, a description of the applicant entity, including a copy of its written partnership agreement or if no written agreement exists, a written description of the rights and duties of the partners, and the name of each partner. If a partner is an entity rather than a natural person, the name of each officer, partner, or manager of that entity, or any entity therein;
- (12) if a limited liability company, a description of the applicant entity, including a copy of its written operating agreement or if no written agreement exists, a written description of the rights and duties of the managers, and the name of each manager. If a manager is an entity rather than a natural person, the name of each officer, partner, or manager of that entity, or any entity therein;
- (13) if a business entity other than a corporation, limited liability company, or partnership, a description of the organization of the applicant entity, including a copy of its organizational documents evidencing its authority to engage in real estate brokerage;
- (14) if a foreign business entity, a Certificate of Authority to transact business in North Carolina issued by the NC Secretary of State and an executed consent to service of process and pleadings; and
- (15) any other information required by this Rule.

(d) When the authority of a business entity to engage in the real estate business is unclear in the application or in law, the Commission shall require the applicant to declare in the firm license application that the applicant's organizational documents authorize the firm to engage in the real estate business and to submit organizational documents, addresses of affiliated persons, and similar information. For purposes of this Rule, the term "principal," when it refers to a person or entity, means any person or entity owning 10 percent or more of the business entity, or who is an officer, director, manager, member, partner, or who holds any other comparable position.

(e) After filing a firm license application with the Commission, the entity shall be licensed provided that it:

- (1) has one principal holding a broker license on active status in good standing who will serve as the qualifying broker; and
- (2) employs and is directed by personnel licensed as a broker in accordance with this Chapter.

The qualifying broker of a partnership of any kind shall be a general partner of the partnership; the qualifying broker of a limited liability company shall be a manager of the company; and the qualifying broker of a corporation shall be an officer of the corporation. A licensed business entity may serve as the qualifying broker of another licensed business entity if the qualifying broker-entity has as its qualifying broker a natural person who is licensed as a broker. The natural person who is qualifying broker shall assure to the Commission the performance of the qualifying broker's duties with regard to both entities. A provisional broker may not serve as a qualifying broker.

(f) The licensing of a business entity shall not be construed to extend to the licensing of its partners, managers, members, directors, officers, employees or other persons acting for the entity in their individual capacities regardless of whether they are engaged in furthering the business of the licensed entity.

(g) The qualifying broker of a business entity shall assume responsibility for:

- (1) designating and assuring that there is at all times a broker-in-charge for each office and branch office of the entity as "office" and "branch office" are defined in Rule .0110(a) of this Subchapter;
- (2) renewing the real estate broker license of the entity;
- (3) retaining the firm's current pocket card at the firm and producing it as proof of firm licensure upon request and maintaining a photocopy of the firm license certificate and pocket card at each branch office thereof;
- (4) notifying the Commission of any change of business address or legal or trade name of the entity and the registration of any assumed business name adopted by the entity for its use;
- (5) notifying the Commission in writing of any change of his or her status as qualifying broker within 10 days following the change;
- (6) securing and preserving the transaction and trust account records of the firm whenever there is a change of broker-in-charge at the firm or any office thereof and notifying the

Commission if the trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter;

- (7) retaining and preserving the transaction and trust account records of the firm upon termination of his or her status as qualifying broker until a new qualifying broker has been designated with the Commission or, if no new qualifying broker is designated, for the period of time records are required to be retained by Rule .0108 of this Subchapter;
- (8) notifying the Commission if, upon the termination of his or her status as qualifying broker, the firm's transaction and trust account records cannot be retained or preserved or if the trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter; and
- (9) notifying the Commission regarding any revenue suspension, revocation of Certificate of Authority, or administrative dissolution of the entity by the NC Secretary of State within 10 days of the suspension, revocation, or dissolution.

(h) Every licensed business entity and every entity applying for licensure shall conform to all the requirements imposed upon it by the North Carolina General Statutes for its continued existence and authority to do business in North Carolina. Failure to conform to such requirements shall be grounds for disciplinary action or denial of the entity's application for licensure.

(i) Upon receipt of notice from an entity or agency of this State that a licensed entity has ceased to exist or that its authority to engage in business in this State has been terminated by operation of law, the Commission shall cancel the license of the entity.

Authority G.S. 55-11A-04; 93A-3(c); 93A-4.

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the Real Estate Commission intends to amend the rules cited as 21 NCAC 58A .0105, .0106, .0108, .0110, .0114, .0503, .0505, .0511, .1702, .1703, .1711; 58B .0103; 58G .0103; 58H .0211, and .0404.

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

Proposed Effective Date: *July 1, 2018*

Public Hearing:

Date: *February 14, 2018*

Time: *9:00 a.m.*

Location: *1313 Navaho Drive, Raleigh, NC 27609*

Reason for Proposed Action:

21 NCAC 58A .0105 - Advertising

To amend the rule in paragraph (a)(1) to clarify the text of the rule that a broker must include the name of the broker and the firm or sole proprietorship with which the broker is affiliated.

21 NCAC 58A .0106 – Delivery of Instruments

To amend the rule in paragraph (a) to require every broker to deliver a copy of any written instruments to their customer or client within 3 days of the document's execution.

21 NCAC 58A .0108 – Retention of Records

To amend the rule to include a broker's duty to protect the security/confidentiality of consumer data in the broker's possession, including secure email, encryption, etc. and to require brokers to provide a copy of all transaction files to their firm within 3 days of receipt.

21 NCAC 58A .0110 – Broker-in-Charge

To amend the rule to (1) clarify the rule text; (2) remove the North Carolina GRI program as an exception to the Broker-in-Charge experience requirement; and (3) require nonresident brokers to complete the 12-hour BIC Course and BIC Update Course.

21 NCAC 58A .0114 - Residential Property and Owner's Association Disclosure Statement

To amend the rule to change "Purchaser" to "Buyer." The purpose of this change is to make the rule match the word usage commonly used by brokers. To amend the rule to include a question that asks if a radon mitigation system is present in the home and to clarify whether the dwelling's sewage disposal system is permitted by the State. To amend the rule to separate the issue of deed restrictions and Property Owners Associations, since not all properties with deed restrictions are governed by a Property Owners Association and to include "Master Insurance" under services and amenities of a owners' association.

21 NCAC 58A .0503 – License Renewal

To amend the rule to remove the sentence that states a broker can renew by calling the Commission's offices in order to safeguard credit card information. The Commission no longer accepts payments over the telephone.

21 NCAC 58A .0505 - Reinstatement

To amend the rule in paragraph (a) to remove the fee associated with suspended licenses. To amend the rule in paragraph (b) to add language clarifying that criminal background checks will be conducted pursuant to a reinstatement application. To amend the rule to require persons requesting reinstatement after less than six months from expiration to disclose any criminal convictions or disciplinary actions by other occupational licensing boards, including any such offenses that occurred since the person's license expired or was revoked.

21 NCAC 58A .0511 – Licensing of Persons Licensed in Another Jurisdiction

To amend the rule to include provisions for licensing military-trained applicants and their military spouses with temporary practice permits in compliance with G.S. 93B-15.1, as enacted in Section 3 of S.L. 2017-28.

21 NCAC 58A .1702 – Continuing Education Requirement

To amend the rule to clarify continuing education credit for a broker-in-charge or broker taking the General Update Course. This provision was previously located in 21 NCAC 58A .0110.

21 NCAC 58A .1703 – Continuing Education for License Activation

To amend the rule to require brokers on inactive status for more than two years to complete additional education prior to activating their license.

21 NCAC 58A .1711 – Continuing Education Required of Nonresident Licensees

To amend the rule to eliminate the requirement of nonresident brokers to notify the Commission of affiliation with a North Carolina office.

21 NCAC 58B .0103 – Renewal of Time Share Registration

To amend the rule to eliminate the notary requirement on the renewal form in order to proceed with electronic time share renewals.

21 NCAC 58G .0103 – Definitions

To amend the rule to include additional definitions of terms.

21 NCAC 58H .0211 – Prelicensing and Postlicensing Roster Reporting

To amend the rule to require schools to submit a Roster Report electronically within 7 days following the course, instead of 30 days.

21 NCAC 58H .0404 – Renewal of Sponsor Approval

To amend the rule to change a rule reference.

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

Comment period ends: March 19, 2018

Procedure for Subjecting a Proposed Rule to Legislative Review:

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

Fiscal impact (check all that apply).

☐ State funds affected

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

SUBCHAPTER 58A – REAL ESTATE BROKERS

SECTION .0100 - GENERAL BROKERAGE

21 NCAC 58A .0105 ADVERTISING

(a) Authority to Advertise.

- (1) A broker shall not advertise any brokerage service or the sale, purchase, exchange, rent, or lease of real estate for another or others without the consent of his or her broker-in-charge and without including in the advertisement the name of the broker ~~or firm with whom the broker is associated~~, and the firm or sole proprietorship with which the broker is affiliated.
- (2) A broker shall not advertise or display a "for sale" or "for rent" sign on any real estate without the written consent of the owner or the owner's authorized agent.

(b) Blind Ads. A broker shall not advertise the sale, purchase, exchange, rent, or lease of real estate for others in a manner indicating the offer to sell, purchase, exchange, rent, or lease is being made by the broker's principal only. Every such advertisement shall conspicuously indicate that it is the advertisement of a broker or brokerage firm and shall not be confined to publication of only a post office box number, telephone number, street address, internet web address, or e-mail address.

(c) A person licensed as a limited nonresident commercial broker shall comply with the provisions of Rule .1809 of this Subchapter in connection with all advertising concerning or relating to his or her status as a North Carolina broker.

Authority G.S. 93A-2(a1); 93A-3(c); 93A-9.

21 NCAC 58A .0106 DELIVERY OF INSTRUMENTS

(a) Except as provided in Paragraph (b) of this Rule, every broker shall deliver a copy of any written agency agreement, contract, offer, lease, rental agreement, option, or other related transaction document to their customer or client within five days three days of the document's execution, broker's receipt of the executed document.

(b) A broker may be relieved of the duty to deliver copies of leases or rental agreements to a property owner pursuant to Paragraph (a) of this Rule if the broker:

- (1) obtains the prior written authority of the property owner to enter into and retain copies of leases or rental agreements on behalf of the property owner;
- (2) executes the lease or rental agreement on a pre-printed form, the material terms of which may not be changed by the broker without prior

- approval by the property owner, except as may be required by law; and
- (3) delivers to the property owner an accounting within 45 days following the date of execution of the lease or rental agreement that identifies:
 - (A) the leased property;
 - (B) the name, phone number, and home address of each tenant; and
 - (C) the rental rates and rents collected.

(c) Paragraph (b) of this Rule notwithstanding, upon the request of a property owner, a broker shall deliver a copy of any lease or rental agreement within five days.

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

21 NCAC 58A .0108 RETENTION OF RECORDS AND CONFIDENTIALITY

(a) Brokers shall retain records of all sales, rental, and other transactions conducted in such capacity, whether the transaction is pending, completed, or terminated prior to its successful conclusion. The broker shall retain records for three years after all funds held by the broker in connection with the transaction have been disbursed to the proper party or parties or the successful or unsuccessful conclusion of the transaction, whichever occurs later. However, if the broker's agency agreement is terminated prior to the conclusion of the transaction, the broker shall retain such records for three years after the termination of the agency agreement or the disbursement of all funds held by or paid to the broker in connection with the transaction, whichever occurs later.

(b) Records shall include copies of the following:

- (1) contracts of sale;
- (2) written leases;
- (3) agency contracts;
- (4) options;
- (5) offers to purchase;
- (6) trust or escrow records;
- (7) earnest money receipts;
- (8) disclosure documents;
- (9) closing statements;
- (10) brokerage cooperation agreements;
- (11) declarations of affiliation;
- (12) broker price opinions and comparative market analyses prepared pursuant to G.S. 93A, Article 6, including any notes and supporting documentation;
- (13) sketches, calculations, photos, and other documentation used or relied upon to determine square footage;
- (14) advertising used to market a property; and
- (15) any other records pertaining to real estate transactions.

(c) All records shall be made available for inspection and reproduction by the Commission or its authorized representatives without prior notice.

(d) Brokers shall safeguard personal and confidential information and records stored or transmitted through computers, electronic mail, facsimile machines, telephones, telephone answering machines, and all other electronic or computer technology.

(e) Brokers shall provide a copy of the written agency agreement, contract, offer, lease, rental agreement, option, or other related transaction document to the firm or sole proprietorship with which they are affiliated within three days of receipt.

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

21 NCAC 58A .0110 BROKER-IN-CHARGE

(a) ~~When used in this Rule, the term:~~

- (1) ~~"Office" means any place of business where acts are performed for which a real estate license is required or where monies received by a broker acting in a fiduciary capacity are handled or records for such trust monies are maintained;~~
- (2) ~~"Principal Office" means the office so designated in the Commission's records by the qualifying broker of a licensed firm or the broker in charge of a sole proprietorship; and~~
- (3) ~~"Branch Office" means any office in addition to the principal office of a broker which is operated in connection with the broker's real estate business.~~

~~(b) Except as provided in Paragraphs (d) and (e) of this Rule, every real estate firm, including a sole proprietorship, shall have a broker designated by the Commission as provided in Paragraph (f) of this Rule to serve as the broker in charge at its principal office and a broker to serve as broker in charge at any branch office. No broker shall be broker in charge of more than one office at a time. No office of a firm shall have more than one designated broker in charge.~~

~~(c) If a firm shares office space with one or more other firms, the same broker may serve as broker in charge of multiple firms at that location. All firms at that location having the same designated broker in charge shall maintain with the Commission as a delivery address the same delivery address as that of the single designated broker in charge.~~

~~(d) A licensed real estate firm is not required to have a broker in charge if it:~~

- (1) ~~has been organized for the sole purpose of receiving compensation for brokerage services furnished by its qualifying broker through another firm or broker;~~
- (2) ~~is treated for tax purposes as a Subchapter S corporation by the United States Internal Revenue Service;~~
- (3) ~~has no principal or branch office; and~~
- (4) ~~has no licensed or unlicensed person associated with it other than its qualifying broker.~~

~~(e) A broker who is a sole proprietor shall obtain the Commission's designation of himself or herself as a broker in charge if the broker engages in any transaction where the broker is required to deposit and maintain monies belonging to others in a trust account, engages in advertising or promoting his or her services as a broker in any manner, or has one or more other brokers affiliated with him or her in the real estate business. Maintenance of a trust or escrow account by a broker solely for holding residential tenant security deposits received by the broker on properties owned by the broker in compliance with G.S. 42-50~~

~~shall not, standing alone, subject the broker to the requirement to designate himself or herself as a broker in charge.~~

~~(f) A broker desiring to be a broker in charge shall request in writing his or her designation as broker in charge by the Commission on a form provided by the Commission. The form shall include the broker's name, license number, firm affiliation, and a certification that he or she possesses the experience described in Subparagraph (g)(2) of this Rule. Upon receipt of notice from the Commission that the broker has been designated as broker in charge, the broker shall assume the duties of broker in charge.~~

~~(g) To qualify to become a broker in charge, a broker shall:~~

- (1) ~~have a license on active status but not on provisional status;~~
- (2) ~~possess at least two years of full time real estate brokerage experience or equivalent four years of part time real estate brokerage experience within the previous five years or real estate education, such as the completion of the North Carolina GRI program or other education with a subject matter relating to brokerage practice and the supervision of brokers, or experience in real estate transactions that the Commission finds equivalent to such experience, such as a licensed attorney with a practice that consisted primarily of handling real estate closing and related matters in North Carolina for three years immediately preceding application or full time, lawful experience selling new homes owned by a corporate homebuilder as a bonafide employee of the corporate home builder for three years immediately preceding the application; and~~
- (3) ~~complete the Commission's 12 classroom hour broker in charge course either within three years prior to designation as a broker in charge or within 120 days following designation as a broker in charge.~~

~~Upon the request of the Commission, a broker shall provide evidence to the Commission that he or she possesses the requisite experience. A broker in charge designation shall be immediately terminated if a broker in charge fails to complete the broker in charge course during the required time period or if the Commission finds the broker in charge does not possess the required experience. A broker who is removed as broker in charge for failure to timely complete the Commission's 12 hour broker in charge course must first complete the 12 hour broker in charge course before he or she may again be designated as broker in charge.~~

~~(h) By submission of a broker in charge designation request to the Commission, a broker certifies that he or she possesses the experience required to become a broker in charge and upon designation by the Commission, the broker shall be authorized to act as a broker in charge. Upon his or her designation as broker in charge and completion of the broker in charge course within the time period prescribed in Subparagraph (g)(3) of this Rule, the designated broker in charge acquires the eligibility to be re-designated as a broker in charge at any time in the future after a period of not actively serving as a broker in charge without~~

having to again satisfy the qualification requirements for initial designation stated in this Paragraph so long as the broker continuously satisfies the requirements to retain such eligibility described in Paragraph (k) of this Rule.

(i) ~~The broker in charge shall, in accordance with the requirements of G.S. 93A and the rules adopted by the Commission, assume the responsibility at his or her office for:~~

- ~~(1) the retention of current license renewal pocket cards by all brokers employed at the office for which he or she is broker in charge; the display of licenses at such office in accordance with Rule .0101 of this Section; and assuring that each broker employed at the office has complied with Rules .0503, .0504, and .0506 of this Subchapter;~~
- ~~(2) the notification to the Commission of any change of business address or trade name of the firm and the registration of any assumed business name adopted by the firm for its use;~~
- ~~(3) the conduct of advertising by or in the name of the firm at such office;~~
- ~~(4) the maintenance at such office of the trust or escrow account of the firm and the records pertaining thereto;~~
- ~~(5) the retention and maintenance of records relating to transactions conducted by or on behalf of the firm at such office, including those required to be retained pursuant to Rule .0108 of this Section;~~
- ~~(6) the supervision of provisional brokers associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter;~~
- ~~(7) the supervision of all brokers employed at the office for which he or she is broker in charge with respect to adherence to agency agreement and disclosure requirements.~~

~~(j) A broker who was the broker in charge of a real estate office on April 1, 2006, whose broker in charge declaration was received by the Commission prior to that date, and who completed the Commission's broker in charge course prior to April 1, 2006 or within 120 days following designation as a broker in charge, may continue to serve as a broker in charge thereafter until his or her eligibility to serve as a broker in charge is terminated as provided in Paragraph (l) of this Rule.~~

~~(k) Once a broker has been designated as a broker in charge and completed the 12-hour broker in charge course as prescribed by Paragraph (g) of this Rule, the broker may maintain broker in charge eligibility by timely annual renewal of his or her broker license and completion each license year of the four-hour mandatory continuing education update course for brokers in charge known as the "Broker In Charge Update Course" described in Rule 58E .0102(b), and any Commission approved four-hour continuing education elective course described in Rule 58E .0305. The Broker In Charge Update Course shall be taken initially by a broker in charge during the first full license year following the license year in which the broker was designated as a broker in charge and each license year thereafter in order for the broker to maintain broker in charge eligibility. Enrollment in the~~

~~Broker In Charge Update Course shall be limited exclusively to current brokers in charge, and brokers who are not currently acting as a broker in charge but who desire to retain their broker in charge eligibility. Only these brokers shall receive continuing education credit for taking the Broker In Charge Update Course. A broker in charge or broker who is broker in charge eligible who takes the General Update Course described in Rule .1702 of this Subchapter rather than the Broker In Charge Update Course shall receive continuing education update course credit for taking such course only for the purpose of retaining his or her license on active status and shall not be considered to have satisfied the requirement to take the Broker In Charge Update Course in order to retain his or her broker in charge status or eligibility.~~

~~(l) A broker's broker in charge eligibility and, if currently designated as a broker in charge, his or her broker in charge designation shall be terminated upon the occurrence of any of the following events:~~

- ~~(1) the broker's license expires or the broker's license is suspended, revoked or surrendered;~~
- ~~(2) the broker's license is made inactive for any reason;~~
- ~~(3) the broker fails to complete the Broker In Charge Update Course described in Paragraph (k) of this Rule; or~~
- ~~(4) the broker is found by the Commission to have not possessed the experience required in Paragraph (g) of this Rule at the time of either initial designation as a broker in charge or re-designation as a broker in charge.~~

~~(m) When a broker who is a former broker in charge desires to be re-designated as a broker in charge following termination of his or her broker in charge designation or eligibility, he or she must first have a license on active status. The broker then must satisfy the experience requirements for initial designation set forth in Paragraph (g) of this Rule, and the broker must complete the 12-hour broker in charge course prior to re-designation as broker in charge.~~

~~(n) A broker in charge shall notify the Commission in writing that he or she no longer is serving as broker in charge of a particular office within 10 days following any such change.~~

~~(o) A non-resident broker who has been designated by the Commission as the broker in charge of an office not located in North Carolina is not required to complete the broker in charge course or the Broker In Charge Update Course prescribed for brokers in charge under Paragraph (k) of this Rule. However, if such broker in charge either becomes a resident of North Carolina or becomes broker in charge of an office located within North Carolina, then he or she must take the 12-hour broker in charge course within 120 days of such change, unless he or she has taken the 12-hour course within the preceding three years. Such broker in charge shall take the Broker In Charge Update Course prescribed in Paragraph (k) of this Rule during the first full license year following the change and each license year thereafter so long as the broker in charge remains a resident of North Carolina or continues to manage an office located in North Carolina.~~

~~(p) A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker in charge of a firm or office in North Carolina.~~

(a) Every real estate firm shall designate one BIC for its principal office and one BIC for each of its branch offices. No office of a firm shall have more than one designated BIC. A BIC shall not serve as BIC for more than one office unless each of those offices share the same physical office space and delivery address.

(b) Every broker who is a sole proprietor shall designate himself or herself as a BIC if the broker:

- (1) engages in any transaction where the broker is required to deposit and maintain monies belonging to others in a trust account;
- (2) engages in advertising or promoting his or her services as a broker in any manner; or
- (3) has one or more other brokers affiliated with him or her in the real estate business.

(c) A licensed real estate firm is not required to have a BIC if it:

- (1) is organized for the sole purpose of receiving compensation for brokerage services furnished by its qualifying broker through another firm or broker;
- (2) is treated for tax purposes as a Subchapter S corporation by the United States Internal Revenue Service;
- (3) has no principal or branch office; and
- (4) has no licensed person associated with it other than its qualifying broker.

(d) A broker who maintains a trust or escrow account for the purpose of holding residential tenant security deposits received by the broker on properties owned by the broker in compliance with G.S. 42-50 shall not, standing alone, be required to be a BIC.

(e) A broker seeking BIC Eligible status shall submit an application on a form available on the Commission's website. The BIC Eligible status form shall include the broker's:

- (1) name;
- (2) license number;
- (3) telephone number;
- (4) email address;
- (5) criminal history and history of occupational license disciplinary actions;
- (6) certification that:
 - (A) his or her broker license is on active status;
 - (B) the broker possesses at least two years of full-time or four years of part-time real estate brokerage experience within the previous five years or shall be a North Carolina licensed attorney with a practice that consisted primarily of handling real estate closings and related matters in North Carolina for three years immediately preceding application; and
 - (C) the broker completed the 12-hour Broker-in-Charge Course no earlier than one year prior to application and no later than 120 days after application; and
- (7) signature.

(f) A broker who holds BIC Eligible status shall submit a form to become the designated BIC for a sole proprietor, real estate firm, or branch office. The BIC designation form shall include:

- (1) the broker's:
 - (A) name;
 - (B) license number;
 - (C) telephone number;
 - (D) email address; and
 - (E) criminal history and history of occupational license disciplinary actions; and
- (2) the firm's:
 - (A) name; and
 - (B) license number, if applicable;

(g) A designated BIC shall:

- (1) assure that each broker employed at the office has complied with Rules .0503, .0504, and .0506 of this Subchapter;
- (2) notify the Commission of any change of firm's business address or trade name and the registration of any assumed business name adopted by the firm for its use;
- (3) be responsible for the conduct of advertising by or in the name of the firm at such office;
- (4) maintain the trust or escrow account of the firm and the records pertaining thereto;
- (5) retain and maintain records relating to transactions conducted by or on behalf of the firm, including those required to be retained pursuant to Rule .0108 of this Section;
- (6) supervise provisional brokers associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter;
- (7) supervise all brokers employed at the office with respect to adherence to agency agreement and disclosure requirements; and
- (8) notify the Commission in writing that he or she is no longer serving as BIC of a particular office within 10 days following any such change.

(h) A broker holding BIC Eligible status shall take the Broker-in-Charge Update Course during the license year of designation, unless the broker has satisfied the requirements of Rule .1702 of this Subchapter prior to designation.

(i) A broker's BIC Eligible status shall terminate if the broker:

- (1) made any false statements or presented any false, incomplete, or incorrect information in connection with an application;
- (2) fails to complete the 12-hour Broker-in-Charge Course pursuant to Paragraph (e) of this Rule;
- (3) fails to renew his or her broker license pursuant to Rule .0503 of this Subchapter, or the broker's license has been suspended, revoked, or surrendered; or
- (4) fails to complete the Broker-in-Charge Update Course and a four credit hour elective course pursuant to Rules .1702 and .1711 of this Subchapter, if applicable.

(j) In order to regain BIC Eligible status after a broker's BIC Eligible status terminates, the broker shall complete the 12-hour Broker-in-Charge Course prior to application and then submit a BIC Eligible status form pursuant to Paragraph (e) of this Rule.

(k) A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker-in-charge of a firm or office in North Carolina.

Authority G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.1; ~~93A-4.1(e)(8); 93A-4.1(e); 93A-4.2; 93A-9; 93A-9(a).~~

21 NCAC 58A .0114 RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE STATEMENT

(a) Every owner of real property subject to a transfer of the type governed by Chapter 47E of the General Statutes shall complete the following Residential Property and Owners' Association Disclosure Statement and furnish a copy of the complete statement to a ~~purchaser~~ buyer in accordance with the requirements of G.S. 47E-4. The form shall bear the seal of the North Carolina Real Estate Commission and shall read as follows:

[N.C. REAL ESTATE COMMISSION SEAL]

**STATE OF NORTH CAROLINA
RESIDENTIAL PROPERTY AND OWNERS' Association DISCLOSURE STATEMENT**

Instructions to Property Owners

1. The Residential Property Disclosure Act (G.S. 47E)("Disclosure Act") requires owners of residential real estate (single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units) to furnish ~~purchasers~~ buyers a Residential Property and Owners' Association Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option, and sale under a lease with option to purchase where the tenant does not occupy or intend to occupy the dwelling. A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.
2. You must respond to each of the questions on the following pages of this form by filling in the requested information or by placing a check (✓) in the appropriate box. In responding to questions, you are only obligated to disclose information about which you have actual knowledge.
 - a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach a report from an attorney, engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
 - b. If you check "No," you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.
 - c. If you check "No Representation," you are choosing not to disclose the conditions or characteristics of the property, even if you have actual knowledge of them or should have known of them.
 - d. If you check "Yes" or "No" and something happens to the property to make your Disclosure Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the ~~purchaser~~ buyer a corrected Disclosure Statement or correct the problem.
3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Disclosure Statement to the ~~purchasers;~~ buyers; and the broker must disclose any material facts about your property which he or she knows or reasonably should know, regardless of your responses on the Statement.
4. You must give the completed Disclosure Statement to the ~~purchaser~~ buyer no later than the time the ~~purchaser~~ buyer makes an offer to purchase your property. If you do not, the ~~purchaser~~ buyer can, under certain conditions, cancel any resulting contract (See "**Note to ~~Purchasers~~ Buyers**" below). You should give the ~~purchaser~~ buyer a copy of the Disclosure Statement containing your signature and keep a copy signed by the ~~purchaser~~ buyer for your records.

Note to Purchasers <u>Buyers</u>
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If the owner does not give you a Residential Property and Owners' Association Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract without penalty to you as the ~~purchaser~~, buyer. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: _____
 Owner's Name(s): _____
Owner(s) acknowledge(s) having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: _____ Date _____, ____
 Owner Signature: _____ Date _____, ____
~~Purchasers~~ Buyers acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owners or owners' agents; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owners and not the owners' agents or subagents. ~~Purchasers~~ Buyers are strongly encouraged to obtain their own inspections from a licensed home inspector or other professional. As used herein, words in the plural include the singular, as appropriate.

~~Purchaser~~ Buyer Signature: _____ Date _____, ____
~~Purchaser~~ Buyer Signature: _____ Date _____, ____

Property Address/Description: _____

The following questions address the characteristics and condition of the property identified above about which the owner has actual knowledge. Where the question refers to "dwelling," it is intended to refer to the dwelling unit, or units if more than one, to be conveyed with the property. The term "dwelling unit" refers to any structure intended for human habitation.

- | | Yes | No | No
Repre-
sentation |
|---|--------------------------|--------------------------|---------------------------|
| 1. In what year was the dwelling constructed? _____
Explain if necessary: _____ | | | <input type="checkbox"/> |
| 2. Is there any problem, malfunction or defect with the dwelling's foundation, slab, fireplaces/chimneys, floors, windows (including storm windows and screens), doors, ceilings, interior and exterior walls, attached garage, patio, deck or other structural components including any modifications to them? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. The dwelling's exterior walls are made of what type of material? <input type="checkbox"/> Brick Veneer <input type="checkbox"/> Wood <input type="checkbox"/> Stone <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Concrete <input type="checkbox"/> Fiber Cement <input type="checkbox"/> Aluminum <input type="checkbox"/> Asbestos <input type="checkbox"/> Other _____
(Check all that apply) | | | <input type="checkbox"/> |
| 4. In what year was the dwelling's roof covering installed? _____
(Approximate if no records are available.) Explain if necessary: _____ | | | <input type="checkbox"/> |
| 5. Is there any leakage or other problem with the dwelling's roof? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

PROPOSED RULES

6. Is there any water seepage, leakage, dampness or standing water in the dwelling's basement, crawl space, or slab? ☐ ☐ ☐
7. Is there any problem, malfunction or defect with the dwelling's electrical system (outlets, wiring, panel, switches, fixtures, generator, etc.)? ☐ ☐ ☐
8. Is there any problem, malfunction or defect with the dwelling's plumbing system (pipes, fixtures, water heater, etc.)? ☐ ☐ ☐
9. Is there any problem, malfunction or defect with the dwelling's heating and/or air conditioning? ☐ ☐ ☐
10. What is the dwelling's heat source? ☐ Furnace ☐ Heat Pump ☐ Baseboard
☐ Other _____ (Check all that apply)
 Age of system: _____
11. What is the dwelling's cooling source? ☐ Central Forced Air ☐ Wall/Window Unit(s)
☐ Other _____ (Check all that apply)
 Age of system: _____
12. What is the dwelling's fuel sources? ☐ Electricity ☐ Natural Gas ☐ Propane ☐ Oil
☐ Other _____ (Check all that apply)
 If the fuel source is stored in a tank, identify whether the tank is ☐ above ground or ☐ below ground, and whether the tank is ☐ leased by seller or ☐ owned by seller.
 (Check all that apply)
13. What is the dwelling's water supply source? ☐ City/County ☐ Community System
☐ Private Well ☐ Shared Well ☐ Other _____
 (Check all that apply)
14. The dwelling's water pipes are made of what type of material? ☐ Copper ☐ Galvanized
☐ Plastic ☐ Polybutylene ☐ Other _____
 (Check all that apply)
15. Is there any problem, malfunction or defect with the dwelling's water supply (including water quality, quantity or water pressure)? ☐ ☐ ☐
16. What is the dwelling's sewage disposal system? ~~☐ Septic Tank~~ ~~☐ Septic Tank with Pump~~
☐ Septic Tank ☐ Septic Tank with Pump ☐ Community System ☐ Connected to City/County System ☐ City/County System available ☐ State Permitted System (fee and conditions apply) ☐ Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates State law])
☐ Other _____
 (Check all that apply)
17. If the dwelling is serviced by a septic system, do you know how many bedrooms are allowed by the septic system permit? If your answer is "Yes," how many bedrooms are allowed? _____ ☐ No records available. ☐ ☐
18. Is there any problem, malfunction or defect with the dwelling's sewer and/or septic system? ☐ ☐ ☐
19. Is there any problem, malfunction or defect with the dwelling's central vacuum, pool, hot tub, spa, attic fan, exhaust fan, ceiling fans, sump pump, irrigation system, TV cable wiring or satellite dish, garage door openers, gas logs, or other systems? ☐ ☐ ☐
20. Is there any problem, malfunction or defect with any appliances that may be included in the conveyance (range/oven, attached microwave, hood/fan, dishwasher, disposal, etc.)? ☐ ☐ ☐

PROPOSED RULES

- | | | | | |
|-------------------|---|--------------------------|--------------------------|--------------------------|
| 21. | Is there any problem with present infestation of the dwelling, or damage from past infestation of wood destroying insects or organisms which has not been repaired? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | Is there any problem, malfunction or defect with the drainage, grading or soil stability of the property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | Are there any structural additions or other structural or mechanical changes to the dwelling(s) to be conveyed with the property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | Is the property to be conveyed in violation of any local zoning ordinances, restrictive covenants, or other land-use restrictions, or building codes (including the failure to obtain proper permits for room additions or other changes/improvements)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 25. | Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) which affect the property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | <u>Is there a radon mitigation system present in the dwelling?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 26-27. | Is there any noise, odor, smoke, etc. from commercial, industrial or military sources which affects the property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 27-28. | Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 28-29. | Is the property subject to any lawsuits, foreclosures, bankruptcy, leases or rental agreements, judgments, tax liens, proposed assessments, mechanics' liens, materialmen's liens, or notices from any governmental agency that could affect title to the property? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 29-30. | Is the property subject to a flood hazard or is the property located in a federally-designated flood hazard area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 30-31. | Does the property abut or adjoin any private road(s) or street(s)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 31-32. | If there is a private road or street adjoining the property, is there in existence any owners' association or maintenance agreements dealing with the maintenance of the road or street? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

If you answered "yes" to any of the questions listed above (~~4-34~~)(1-32) please explain (attach additional sheets if necessary):

In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public agency, or by an attorney, engineer, land surveyor, geologist, pest control operator, contractor, home inspector, or other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.

The following questions pertain to the property identified above, including the lot to be conveyed and any dwelling unit(s), sheds, detached garages, or other buildings located thereon.

- | | Yes | No | No
Repre-
sentation |
|--|--------------------------|--------------------------|---------------------------|
| 33. <u>Is the property subject to governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot or unit?</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

If you answered "yes" to the question above, please explain (attach additional sheets if necessary):

32. 34. ~~To your knowledge, is~~ Is the property subject to regulation by one or more owners' association(s) ~~or governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot,~~ including, but not limited to ~~to~~ to, obligations to pay regular ~~assessment~~ assessments or dues and special assessments? If your answer is "yes," please provide the information requested below as to each owners' association to which the property is subject [insert N/A into any blank that does not apply]:

(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address and telephone number of the president of the owners' association or the association _____ manager _____ are _____

(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address and telephone number of the president of the owners' association or the association _____ manager _____ are _____

*** If you answered "Yes" to question 32 34 above, you must complete the remainder of this Disclosure Statement. If you answered "No" or "No Representation" to question 32 34 above, you do not need to answer the remaining questions on this Disclosure Statement. Skip to the bottom of the last page and initial and date the page.**

- | | Yes | No | No
Repre-
sentation |
|--|--------------------------|--------------------------|------------------------------------|
| 33. 35. Are any fees charged by the association or by the association's management company in connection with the conveyance or transfer of the lot or property to a new owner? If your answer is "yes," please state the amount of the fees: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| _____ | | | |
| _____ | | | |
| 34. 36. As of the date this Disclosure Statement is signed, are there any dues, fees or special assessment which have been duly approved as required by the applicable declaration or by-laws, and that are payable to an association to which the lot is subject? If your answer is "yes," please state the nature and amount of the dues, fees or special assessments to which the property is subject: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| _____ | | | |
| _____ | | | |
| 35. 37. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against or pending lawsuits involving the property or lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| _____ | | | |
| _____ | | | |
| 36. 38. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against or pending lawsuits involving the planned community or the association to which the property and lot are subject, with the exception of any action filed by the | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

association for the collection of delinquent assessments on lots other than the property and lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment:

37- 39. Which of the following services and amenities are paid for by the owners' association(s) identified above out of the association's regular assessments ("dues")? (Check all that apply.)

	Yes	No	No Repre- sentation
Management Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Building Maintenance of Property to be Conveyed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Master Insurance</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Yard/Landscaping Maintenance of Lot to be Conveyed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Common Areas Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trash Removal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recreational Amenity Maintenance (specify amenities covered) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Pest Treatment/Extermination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Street Lights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Storm Water Management/Drainage/Ponds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Private Road Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parking Area Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gate and/or Security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other: (specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

~~Owner~~ Buyer Initials and Date _____ Owner Initials and Date _____

~~Purchaser~~ Buyer Initials and Date _____ ~~Purchaser~~ Owner Initials and Date _____

(b) The form described in Paragraph (a) of this Rule may be reproduced, but the text of the form shall not be altered or amended in any way.

(c) The form described in Paragraph (a) of this Rule as amended effective ~~July 1, 2014~~ July 1, 2018, applies to all properties placed on the market on or after ~~July 1, 2014~~ July 1, 2018. The form described in Paragraph (a) of this Rule as amended effective ~~January 1, 2013~~ July 1, 2014, applies to all properties placed on the market prior to ~~July 1, 2014~~ July 1, 2018. If a corrected disclosure statement required by G.S. 47E-7 is prepared on or after ~~July 1, 2014~~ July 1, 2018, for a property placed on the market prior to ~~July 1, 2014~~ July 1, 2018, the form described in Paragraph (a) of this Rule as amended effective ~~July 1, 2014~~ July 1, 2018, shall be used.

Authority G.S. 47E-4(b); 47E-4(b1); 93A-3(c); 93A-6.

SECTION .0500 - LICENSING

21 NCAC 58A .0503 LICENSE RENEWAL

(a) All real estate licenses issued by the Commission under G.S. 93A, Article 1 shall expire on June 30 following issuance. Any broker desiring renewal of his or her license shall renew on the Commission's website within 45 days prior to license expiration and shall submit a renewal fee of forty-five dollars (\$45.00). ~~A broker who does not have the ability to renew online may renew by calling the Commission's office during normal business hours posted on the Commission's website.~~

(b) During the renewal process, every individual broker shall provide an email address to be used by the Commission. The email address may be designated by the broker as private in order to be exempt from public records disclosures pursuant to G.S. 93A-4(b2). A broker who does not have an email address is not required to obtain an email address to comply with this Rule.

(c) During the renewal process, every designated broker-in-charge shall disclose:

- (1) each federally insured depository institution lawfully doing business in this State where the trust account(s) for the broker-in-charge or the entity for which the broker-in-charge is designated is held, if applicable; and
- (2) any criminal conviction or occupational license disciplinary action that occurred within the previous year.

Authority G.S. 93A-3(c); 93A-4; 93A-4.1; 93A-6.

21 NCAC 58A .0505 REINSTATEMENT OF A LICENSE

(a) The fee for reinstatement of a license that has been expired, revoked, ~~suspended~~, or surrendered for less than two years shall be an amount equal to two times the current renewal license fee pursuant to Rule .0503 of this Section.

(b) The reinstatement application form is available on the Commission's website and shall include the applicant's:

- (1) legal name;
- (2) mailing, physical, and email address;
- (3) telephone number;
- (4) previous license number;
- (5) Secretary of State identification number, if applicable;
- (6) social security number and date of birth, if applicable;
- (7) qualifying broker and broker-in-charge's legal name and license number, if applicable;
- (8) criminal record report prepared within six months of application;
- ~~(8)(9)~~ certification; and
- ~~(9)(10)~~ signature.

(c) An individual seeking reinstatement of a license that has been expired ~~or revoked~~ for less than six months ~~shall~~ shall:

- (1) submit the reinstatement fee pursuant to Paragraph (a) of this ~~Rule~~ Rule;
- (2) disclose any criminal conviction or disciplinary action pursuant to Rule .0113 of this Section, including any conviction or disciplinary action incurred while the individual's license was expired; and
- (3) satisfy the license activation requirements of Rule .1703 of this Subchapter, if applicable.

(d) An individual seeking reinstatement of a license that has been ~~expired, revoked, or surrendered~~ expired for six months but no more than two years ~~or revoked or surrendered for no more than two years~~ shall:

- (1) submit a complete reinstatement application pursuant to Paragraph (b) of this Rule;
- (2) submit the reinstatement fee pursuant to Paragraph (a) of this Rule; and ~~either~~
- (3) pass:
 - (A) ~~complete~~ one Postlicensing course within six months prior to submitting his or her reinstatement application;
 - (B) ~~pass both~~ the "National" and "State" sections of the current license examination within 180 days after

- (C) submitting his or her reinstatement application; or
- ~~pass only~~ the "State" section of the current license examination within 180 days after submitting his or her reinstatement application if the individual possesses an active broker license in another state.

(e) An individual seeking reinstatement of a license that has been expired, revoked, or surrendered for more than two years ~~or more~~ shall ~~submit~~ submit an original license application and fee pursuant to G.S. 93A-4 and Rules .0301 and .0302 of this Subchapter.

- ~~(1) an original license application; and~~
- ~~(2) the original license application fee pursuant to G.S. 93A-4 and Rules .0301 and .0302 of this Subchapter.~~

(f) A license shall be reinstated with the same license number and status, either full or provisional, it held before expiration, revocation, or surrender if reinstated within three years from the expiration, revocation, or surrender and shall be effective as of the date of reinstatement, not the date of original licensure. If a license is reinstated after three years from the expiration, revocation, or surrender, the license shall be on provisional broker status pursuant to G.S. 93A-4(a1).

~~(f)(g)~~ A business entity seeking reinstatement of a license that has been expired or revoked: shall submit:

- (1) ~~for less than six months shall submit the reinstatement fee pursuant to Paragraph (a) of this Rule. the reinstatement fee pursuant to Paragraph (a) of this Rule if the license has been expired for less than six months;~~
- (2) ~~for six months but no more than two years shall: the reinstatement fee and a complete reinstatement application pursuant to Paragraphs (a) and (b) of this Rule if the license has been expired for six months but no more than two years or revoked or surrendered for no more than two years;~~
 - ~~(A) submit a complete reinstatement application pursuant to Paragraph (b) of this Rule; and~~
 - ~~(B) submit the reinstatement fee pursuant to Paragraph (a) of this Rule.~~
- (3) ~~for more than two years shall file an original firm license application pursuant to G.S. 93A-4 and Rules .0301, .0302, and .0502 of this Subchapter. Subchapter if the license has been expired, revoked, or surrendered for more than two years.~~

~~(g) A license shall be reinstated with the same license number and status, either full or provisional, it held before expiration, revocation, or surrender if reinstated within three years from the expiration, revocation, or surrender and shall be effective as of the date of reinstatement, not the date of original licensure. If a license is reinstated after three years from the expiration, revocation, or surrender, the license shall be on provisional broker status pursuant to G.S. 93A-4(a1). An individual seeking reinstatement~~

of a license on active status shall satisfy the requirements of Rule .1703 of this Subchapter.

(h) A broker seeking reinstatement of a license shall satisfy to the Commission that he or she possesses the character requisites pursuant to G.S. 93A-4(b).

Authority G.S. 93A-3(c); 93A-4; 93A-4.1.

**21 NCAC 58A .0511 LICENSING OF PERSONS
LICENSED IN ANOTHER JURISDICTION (EFFECTIVE
JULY 1, 2018)**

(a) For purposes of this Rule, "Jurisdiction" shall mean a state, territory, or possession of the United States or Canada.

(b) An individual seeking a real estate license who, at the time of application, holds a current real estate salesperson or real estate broker license in another jurisdiction that has been on active status in good standing within the three years prior to application may request a waiver of the 75 hour education program required by G.S. 93A-4(a) and the "National" section of the North Carolina real estate license examination, as defined in Rule .0402(b) of this Subchapter, by submitting an official certification of licensure issued within the six months preceding application to the Commission along with their application for licensure pursuant to Rule .0301 of this Subchapter. satisfy the 75-hour prelicensing education program and examination requirements prescribed in G.S. 93A-4 by electing to either:

- (1) pass the "State" section of that examination. A person qualifying for licensure under this provision shall be issued a North Carolina broker license on a status comparable to the category of license held by the person in the jurisdiction where the qualifying license is held;
or
- (2) be issued a North Carolina broker license on provisional status only and then comply with the provisions of G.S. 93A-4(a1).

(c) Brokers who were licensed in North Carolina by reciprocity shall be entitled to retain such license indefinitely, unless suspended, revoked, or surrendered pursuant to G.S. 93A-6, so long as the license is renewed or is reinstated pursuant to Rule .0505 of this Section.

(d) A military-trained or military spouse applicant seeking a temporary practice permit ~~shall~~ shall submit an application on a form available on the Commission's website. The military-trained or military spouse temporary permit application shall include applicant's:

- (1) legal name;
- (2) mailing, physical, and email address;
- (3) telephone number;
- (4) social security number;
- (5) date of birth;
- (6) criminal background report prepared within six months of application;
- (7) occupational licensing history, including any disciplinary actions;
- (8) pending liens or judgements;
- (9) certification of equivalent training or experience, by submission of either a:

(A) military occupational specialty certificate that is substantially equivalent to or exceeds the requirements for licensure;

(B) certification that the applicant has engaged in the active practice of brokerage for at least two of the five years preceding the date of the application; or

(C) certification, issued within six months of application, of a current real estate salesperson or broker license in another jurisdiction that has been on active status within three years of application;

(10) certification; and

(11) signature.

(1) ~~be licensed, certified, or registered in another jurisdiction that has standards equivalent to G.S. 93A-4;~~

(2) ~~satisfy the requirements for licensure under G.S. 93B-15.1(a) or G.S. 93B-15.1(b); and~~

(3) ~~provide a copy of the official military order or a written verification signed by the commanding officer.~~

~~(e) The military trained or military spouse applicant may engage in brokerage activity under the temporary practice permit until a license is granted or until a notice to deny a license is issued, whichever occurs sooner.~~

~~(f)(e) A temporary practice permit shall automatically expire after 180 days from issuance. An applicant that who is issued a temporary practice permit under this Subchapter shall remain a provisional broker for the duration of the permit.~~

Authority G.S. 93A-3(c); 93A-4; 93A-4.1; 93A-9(a); 93B-15.1.

**SECTION .1700 – MANDATORY CONTINUING
EDUCATION**

**21 NCAC 58A .1702 CONTINUING EDUCATION
REQUIREMENT**

(a) Except as provided in Rules .1708 and .1711 of this Section, ~~the~~ a broker shall complete eight credit hours of real estate continuing education courses approved pursuant to 21 NCAC 58H within one year prior to the expiration of the license as follows:

- (1) four credit hours of elective courses; and
- (2) four hours of either:
 - (A) the "General Update Course;" or
 - (B) for a ~~broker in charge~~, broker with BIC Eligible status, the "Broker-In-Charge Update Course" in lieu of the "General Update Course."

(b) A BIC or broker who takes the General Update Course rather than the Broker-In-Charge Update Course shall receive continuing education credit for taking such course only for the purpose of retaining his or her license on active status and shall not be considered to have satisfied the requirement to take the

Broker-In-Charge Update Course in order to retain his or her BIC Eligible status.

~~(b)(c)~~ Continuing education courses shall be completed upon the second renewal following the initial licensure and upon each subsequent annual renewal.

~~(e)(d)~~ The broker shall provide the course completion certificate upon request of the Commission.

~~(d)(e)~~ No continuing education shall be required to renew a broker license on inactive status. In order to change a license from inactive status to active status, the broker shall satisfy the continuing education requirement described in Rule .1703 of this Section.

~~(e)(f)~~ No continuing education shall be required for a broker who is a member of the U.S. Congress or the North Carolina General Assembly in order to renew his or her license on active status.

~~(f)(g)~~ For purposes of this Rule, the terms "active status" and "inactive status" shall have the same definition as those in Rule .0504 of this Subchapter.

~~(e)(h)~~ For continuing education purposes, the term "initial licensure" shall include the first time that a license of a particular type is issued to a person, the reinstatement of a canceled, revoked or surrendered license, and any license expired for more than six months.

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

21 NCAC 58A .1703 CONTINUING EDUCATION FOR LICENSE ACTIVATION

(a) A broker requesting to change an inactive license to active status on or after the broker's second license renewal following his or her initial licensure shall have completed the continuing education as described in Paragraph (b) or (c) of this Rule. ~~Rule, whichever is appropriate.~~

(b) If the inactive broker's license has not been on active status since the preceding July 1 and the broker has a deficiency in his or her continuing education record for the previous license period, the broker shall make up the deficiency and satisfy the continuing education requirement pursuant to Rule .1702 of this Section for the current license period in order to activate the license. Any deficiency may be made up by completing, during the current license period or previous license period, approved continuing education elective courses; however, such courses shall not be credited toward the continuing education requirement for the current license period. When crediting elective courses for purposes of making up a continuing education deficiency, the maximum number of credit hours that will be awarded for any course is four hours.

(c) If a broker's license has been on inactive status for more than two years and the broker has a deficiency in his or her continuing education record, the broker shall:

- (1) cure the continuing education deficiency for the current license year; and
- (2) complete two Postlicensing courses no more than six months prior to activation.

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

21 NCAC 58A .1711 CONTINUING EDUCATION REQUIRED OF NONRESIDENT BROKERS

(a) To be considered a nonresident for continuing education purposes, a real estate broker licensed in North Carolina shall not have a North Carolina business address, mailing address, or residence address at the time he or she applies for license renewal if he or she seeks to renew his or her license on active status. A nonresident North Carolina broker who wishes to renew his or her license on active status may satisfy the continuing education requirement by any one of the following means:

- (1) A nonresident broker may, at the time of license renewal, hold a real estate license on active status in another state and certify on a form prescribed by the Commission that the broker holds such license. If at any time after renewal there is a change in the status of the out-of-state license, the nonresident broker shall notify the Commission within 10 days and request that his or her North Carolina license be placed on inactive status, or provide evidence to the Commission that he or she has satisfied either Subparagraph (a)(2) or (a)(3) of this Rule or the requirements of Rule .1702 of this Section.
- (2) A nonresident broker may, within one year preceding license expiration, complete the Commission-prescribed Update course plus one Commission-approved continuing education elective course, or complete two Commission-approved continuing education elective courses.
- (3) A nonresident broker may, within one year preceding license expiration, complete eight classroom hours in courses approved for continuing education credit by the real estate licensing agency in the broker's state of residence or in the state where the course was taken. To obtain credit for a continuing education course completed in another state and not approved by the Commission, the broker must submit a written request for continuing education credit accompanied by a fee of fifty dollars (\$50.00) per request and evidence that the course was completed and that the course was approved for continuing education credit by the real estate licensing agency in the broker's state of residence or in the state where the course was taken.
- (4) A nonresident broker may obtain eight hours equivalent credit for a course or courses not approved by the Commission or for related educational activities as provided in Rule .1708 of this Section. The maximum amount of continuing education credit the Commission will award a nonresident broker for an unapproved course or educational activity shall be eight hours.

(b) When requesting to change an inactive license to active status, or when applying for reinstatement of a license expired for more than six months, a nonresident broker may satisfy the

continuing education requirements described in Rules .0505 and .1703 of this Subchapter by complying with any of the options described in Paragraph (a) of this Rule, except that the requirements in Subparagraphs (a)(2) and (a)(3) of this Rule restricting the taking of courses to one year preceding license expiration shall not be applicable.

(c) No carry-over credit to a subsequent license period shall be awarded for a course taken in another state that has not been approved by the North Carolina Real Estate Commission as an elective course pursuant to 21 NCAC 58H .0406.

~~(d) A nonresident broker who has renewed his or her license on active status pursuant to Paragraph (a) of this Rule shall notify the Commission within 10 days if he or she subsequently affiliates with an office with a North Carolina business or mailing address, or becomes a resident of this State, and within 30 days provide evidence to the Commission that he or she has satisfied the requirements of either Subparagraphs (a)(2) or (a)(3) of this Rule or the requirements of Rule .1702 of this Section.~~

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

SUBCHAPTER 58B – TIME SHARES

SECTION .0100 – TIME SHARE PROJECT REGISTRATION

21 NCAC 58B .0103 RENEWAL OF TIME SHARE PROJECT REGISTRATION

(a) A developer seeking a renewal of a time share project registration shall submit a complete renewal application form during the month of June. A renewal application form is available on the Commission's website at www.ncrec.gov. In the renewal application form, the developer shall set forth:

- (1) the time share's project name, registration number, and mailing address;
- (2) the developer's name, telephone number, and email address;
- (3) the full legal name of brokers that are associated with the time share project and their real estate license numbers;
- (4) the name of all exchange programs associated with the time share project along with a current copy of the Exchange Disclosure Report pursuant to G.S. 93A-48;
- (5) the name, address, email address, telephone number, real estate broker license number if applicable, and the assignment date for each of the following:
 - (A) the managing entity;
 - (B) the marketing entity;
 - (C) the registrar, pursuant to G.S. 93A-58(a);
 - (D) the independent escrow agent, pursuant to G.S. 93A-42(a); and
 - (E) the project broker, pursuant to 93A-58(c);
- (6) a certification that the information contained in the registration filed with the Commission is

accurate and current on the date of the renewal application; and

- (7) ~~notarized signature(s) by either: the developer's attorney or project broker's signature.~~

- ~~(A) two executive officers of the corporation developer;~~
- ~~(B) two managers of the limited liability company developer;~~
- ~~(C) the sole proprietor of the sole proprietor developer;~~
- ~~(D) the general partner of the partnership developer; or~~
- ~~(E) the developer's attorney.~~

(b) The developer shall submit a nonrefundable fee of eight hundred dollars (\$800.00) payable to the North Carolina Real Estate Commission by certified check, money order, debit card, or credit card.

(c) A complete renewal application shall be accompanied by the prescribed fee and shall be received at the Commission's office prior to the expiration of the certificate of registration as described in G.S. 93A-52(d).

(d) Making a false certification on a time share project registration renewal application shall be grounds for disciplinary action by the Commission.

Authority G.S. 93A-51; 93A-52(d).

SUBCHAPTER 58G – NORTH CAROLINA REAL ESTATE COMMISSION

SECTION .0100 – GENERAL

21 NCAC 58G .0103 DEFINITIONS

The following definitions apply throughout this Chapter and to all forms prescribed pursuant to this Chapter:

- (1) "Branch Office" means any office in addition to the principal office of a broker which is operated in connection with the broker's real estate business.
- (2) "BIC" means a broker-in-charge pursuant to G.S. 93A-2(a1).
- (3) "BIC Eligible" means a broker's license status who has satisfied the broker-in-charge qualification requirements and filed application pursuant to G.S. 93A-4.2 and 21 NCAC 58A .0110.
- ~~(4)~~(4) "Commission" means the North Carolina Real Estate Commission.
- ~~(5)~~(5) "Commission's website" means www.ncrec.gov.
- ~~(6)~~(6) "Day" means calendar day unless the rule expressly states otherwise. The first day counted is the day following the act, event, or transaction that triggered the tolling of the designated time period.
- ~~(7)~~(7) "Fee" means a payment made to the Commission by a bank check, certified check, money order, debit card, credit card, or other

electronic means and is nonrefundable once the payment has been processed.

- ~~(5)~~(8) "Firm" means a partnership, corporation, limited liability company, association, or other business entity, except for a sole proprietorship.
- ~~(8)~~(9) "Form" means an original form template provided by the Commission and completed by the submitting party.
- (10) "Office" means any place of business where acts are performed for which a real estate license is required or where monies received by a broker acting in a fiduciary capacity are handled or records for such trust monies are maintained.
- (11) "Principal Office" means the office so designated in the Commission's records by the qualifying broker of a licensed firm or the broker-in-charge of a sole proprietorship.

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

SUBCHAPTER 58H - REAL ESTATE EDUCATION

SECTION .0200 - REAL ESTATE SCHOOLS

21 NCAC 58H .0211 PRELICENSING AND POSTLICENSING ROSTER REPORTING

(a) A school shall provide a course completion certificate to each student who completes a Prelicensing or Postlicensing course under Rule .0210 of this Section. Each course completion certificate shall identify the course, date of completion, student, and instructor. The certificate shall be signed by the school director.

(b) For each Prelicensing or Postlicensing course taught, a school shall submit a Roster Report electronically within ~~30~~ seven days following the course.

- (1) The Prelicensing Roster Report shall include:
 - (A) each student's legal name;
 - (B) each student's email address and telephone number;
 - (C) each student's unique identification number;
 - (D) the course completion date pursuant to Rule .0210 of this Section;
 - (E) the school's name and number;
 - (F) the course's number; and
 - (G) the instructor's name and number;
- (2) The Postlicensing Roster Report shall include:
 - (A) each student's legal name;
 - (B) each broker's license number;
 - (C) the course completion date; date pursuant to Rule .0210 of this Section;
 - (D) the school's name and number;
 - (E) the course's name and number; and
 - (F) the instructor's name and number.

(c) Schools shall electronically submit with the Postlicensing Roster Reports the per student fee prescribed by G.S 93A-4(a2).

Authority G.S. 93A-4; 93A-33.

SECTION .0400 - CONTINUING EDUCATION

21 NCAC 58H .0404 RENEWAL OF SPONSOR APPROVAL

(a) Commission approval of all continuing education sponsors shall expire annually on June 30 following issuance of approval.

(b) In order to ensure continuous sponsor approval, an approved sponsor shall file an electronic application for renewal of approval within the 45 days immediately preceding expiration of approval. The sponsor approval renewal application shall require the sponsor to set forth:

- (1) the legal name of sponsor and any assumed business name;
- (2) the sponsor number assigned by the Commission;
- (3) the sponsor's mailing address, telephone number, and email address;
- (4) the continuing education coordinator's legal name;
- (5) any criminal convictions or occupational licensure disciplinary action taken against any individual listed as owner(s) of the sponsor since last approval;
- (6) the name and course number of each continuing education elective course approved pursuant to Rule .0406 of this Section the applicant wishes to renew;
- (7) a certification that the continuing education coordinator has completed the Commission's video training pursuant to ~~Rule .0403(c)~~ Rule .0403(b) of this Section;
- (8) a certification that its facilities and equipment are in compliance with all applicable local, state, and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act; and
- (8) the signature of the sponsor.

(c) A continuing education sponsor also licensed or approved as a school may renew its continuing education sponsor approval on its school renewal form pursuant to Rule .0214 of this Subchapter.

(d) Continuing education sponsors shall submit a fifty dollar (\$50.00) fee for each continuing education elective course the sponsor wishes to renew. No fee is required if the entity making application is a public school or is an agency of federal, state or local government.

(e) Continuing education sponsors shall submit a one hundred dollar (\$100.00) materials fee if the sponsor wishes to renew approval to offer Update courses. No fee is required if the entity making application is a public real estate school or is an agency of federal, state, or local government.

Authority G.S. 93A-3; 93A-4.1.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission December 14, 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 (2nd Vice Chair)

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

January 18, 2018	February 15, 2018
March 15, 2018	April 19, 2018

RULES REVIEW COMMISSION MEETING MINUTES December 14, 2017

The Rules Review Commission met on Thursday, December 14, 2017, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Bobby Bryan, Margaret Currin, Jeanette Doran, Garth Dunklin, Jay Hemphill, Jeff Hyde, and Jeff Poley.

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

The meeting was called to order at 10:06 a.m. with Chairman Dunklin presiding.

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

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the November 16, 2017 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

10A NCAC 27H .0205 and .0206 - Both rules were unanimously approved.

The Commission received over 10 letters of objection in accordance with G.S. 150B-21.3(b2), requesting a delayed effective date and legislative review of both rules.

LOG OF FILINGS (PERMANENT RULES)

Pre-Reviewed Rules

Medical Care Commission 10A NCAC 13B, 13D

All rules were unanimously approved.

Prior to the review of the rules from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the report because he serves as legal counsel to this entity.

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

Medical Care Commission 10A NCAC 13J

All rules were unanimously approved with the following exception:

In accordance with 26 NCAC 05 .0114, the Commission made their approval of 10A NCAC 13J .0901 contingent upon a technical change to Page 2, line 24 to replace "weight bearing" with "hands on." The agency subsequently submitted the rule to satisfy the contingency.

The Commission granted a waiver of 26 NCAC 05. 0103 to consider written comments received after the deadline submitted by Richard Rutherford, with SembraCare, Inc.

Richard Rutherford, with SembraCare, Inc., addressed the Commission.

Bethany Burgon, with the Attorney General's Office and representing the agency, addressed the Commission.

Clarence Ervin, with the agency, addressed the Commission.

The Commission received over 10 letters of objection in accordance with G.S. 150B-21.3(b2), requesting a delayed effective date and legislative review of 10A NCAC 13J .0901.

Prior to the review of the rules from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning these Rules because he serves as legal counsel to this entity.

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

Medical Care Commission 10A NCAC 13P

All rules were unanimously approved.

Prior to the review of the rules from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning these Rules because he serves as legal counsel to this entity.

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

Alcoholic Beverage Control Commission

All rules were unanimously approved.

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

Environmental Management Commission

All rules were unanimously approved with the following exception:

The Commission extended the period of review for 15A NCAC 02D .2203 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period to allow the agency to complete requested technical changes and submit the revised rules at a later meeting.

Department of Transportation

All rules were unanimously approved.

Board of Barber Examiners

All rules were unanimously approved.

Non Pre-Reviewed Rules

Social Services Commission

All rules were unanimously approved.

The Commission received over 10 letters of objection in accordance with G.S. 150B-21.3(b2), requesting a delayed effective date and legislative review of 10A NCAC 10 .0309, .0313, and .0602.

Commission for Public Health

All rules were unanimously approved.

Lee Storrow, with the North Carolina AIDS Action Network, addressed the Commission.

Department of Insurance

All rules were unanimously approved.

Department of Insurance/Office of State Fire Marshal 11 NCAC 05A

All rules were unanimously approved.

Private Protective Services Board

All rules were unanimously approved.

Alarm Systems Licensing Board

All rules were unanimously approved.

Coastal Resources Commission

All rules were unanimously approved.

Well Contractors Certification Commission

All rules were unanimously approved.

EXISTING RULES REVIEW**Commission for Public Health**

10A NCAC 41A - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 41B - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 41D - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 41F - The Commission unanimously approved the report as submitted by the agency.
10A NCAC 41G - The Commission unanimously approved the report as submitted by the agency.

Social Services Commission

10A NCAC 70M – The Commission unanimously approved the report as submitted by the agency.

Marine Fisheries Commission

15A NCAC 03 – The Commission unanimously approved the report as submitted by the agency.

Marine Fisheries Commission/Wildlife Resources Commission

15A NCAC 03Q .0100 – The Commission unanimously approved the report as submitted by the agencies.

Wildlife Resources Commission

15A NCAC 10B – The Commission unanimously approved the report as submitted by the agency.
15A NCAC 10C – The Commission unanimously approved the report as submitted by the agency.

Wildlife Resources Commission/Marine Fisheries Commission

15A NCAC 10C .0100 – The Commission unanimously approved the report as submitted by the agency agencies.

Department of Environmental Quality

15A NCAC 13B .1500 – The Commission unanimously approved the report as submitted by the agency.

Local Government Commission

20 NCAC 03 – The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from the Local Government Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the report because he serves as legal counsel to this entity.

Capital Facilities Finance Agency

20 NCAC 09 - The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from the Capital Facilities Finance Agency, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the report because he serves as legal counsel to this entity.

Department of Administration

01 NCAC 05 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than November 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Department of Administration

01 NCAC 09, 35 – As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than November 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Department of Agriculture & Consumer Services

02 NCAC 52 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than May 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Environmental Management Commission

15A NCAC 02C - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than December 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Environmental Management Commission

15A NCAC 13B – As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than April 30, 2021 pursuant to G.S. 150B-21.3A(d)(2).

Psychology Board

21 NCAC 54 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than December 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

The Commission amended Rule 26 NCAC 05 .0211 to reflect changes in the periodic review schedule.

Commissioner Dunklin gave the Commission a brief update on the status of the lawsuit by the State Board of Education against the Rules Review Commission.

The meeting adjourned at 11:20 p.m.

The next regularly scheduled meeting of the Commission is Thursday, January 18th at 10:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Garth Dunklin, Chair

December 14, 2017

Rules Review Commission
Meeting
Please **Print** Legibly

Name	Agency
Cindy DeBorja	DHSR
Carey Gault	DHSR
Dennis Seavers	Barber Board
William Walton	DOJ
Richard Krizan	Seniors Care / DHSR
Nadine Pfeffer	DHSR
James Evin	DHSR
Scott Bullock	NCDEQ/UST
JARED EDWARDS	NCDEQ/UST
Jennifer Everett	DEQ
Candace Hoffman	DOJ
Linda L. Smith	NCDEQ/UST
Azzie Conley	DHSR
Dawn M.	DHHS / DCDEE
Alexi Gruber	DOJ
Drew Morgan	Well Contr. Cert.
Cheta Hill	DHSR
Bethany Bargar	DOJ
Elizabeth Everett	DHHS / DCDEE
Loretha Bunch	NC DOT
John Hann	NC DOT

December 14, 2017

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Meghan Cook	NCDOJ
Kathie Smith	Association for Home and Hospice Care NC
Christy Goebel	DEQ
Glenda Antis	DAAS/DHHS
W. Denise Baker	DHHS - DMH/DOHHS
Carrie Kuhlman	NCWRC
M. Smallwood	NCWRC
Bob Martin	NC DHHS DPH
Laura Rowe	DST
Cindy Aiken	DST
John F. Maddrey	DEPT. OF ADMINISTRATION
Tom Mitchell	DHSR
Nelly Absarok	DHSR
Greg C. Auer	DST
Steve Hall	NC DEQ-DAQ
Maggie Craven	PPSB/ASUB
John R. Camp	NCAAW
Michael Wilson	NCGA
Lee Storum	NC AIDS Action Network
Beverly Speroff	NC DST DHSR
Patrick Knutson	DEQ-DAQ
Matthew Nash	DEQ-DAQ

[illegible]



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

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

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

December 14, 2017

John F. Maddrey, Rulemaking Coordinator
North Carolina Department of Administration
116 W. Jones Street
Raleigh, North Carolina 27603-8003

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 01 NCAC 05

Dear Mr. Maddrey:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the December 14, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than November 30, 2019.

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

Sincerely,

Abigail M. Hammond
Commission Counsel

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

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

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

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

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

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

An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
May 19, 2016
APO Review: July 23, 2016**

**Administration, Department of
Total: 27**

RRC Determination: Necessary with substantive public interest

Rule	Determination
01 <u>NCAC 05B .0207</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0208</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0303</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0304</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0305</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0306</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0308</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0309</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0310</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0313</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0316</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0317</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0501</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0502</u>	Necessary with substantive public interest
01 <u>NCAC 05B .0503</u>	Necessary with substantive public interest
01 <u>NCAC 05B .1108</u>	Necessary with substantive public interest
01 <u>NCAC 05B .1201</u>	Necessary with substantive public interest
01 <u>NCAC 05B .1501</u>	Necessary with substantive public interest
01 <u>NCAC 05B .1507</u>	Necessary with substantive public interest
01 <u>NCAC 05B .1510</u>	Necessary with substantive public interest
01 <u>NCAC 05B .1511</u>	Necessary with substantive public interest
01 <u>NCAC 05B .1516</u>	Necessary with substantive public interest
01 <u>NCAC 05B .1519</u>	Necessary with substantive public interest
01 <u>NCAC 05B .1520</u>	Necessary with substantive public interest
01 <u>NCAC 05B .1521</u>	Necessary with substantive public interest
01 <u>NCAC 05B .1522</u>	Necessary with substantive public interest
01 <u>NCAC 05D .0209</u>	Necessary with substantive public interest



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

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

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

December 14, 2017

John F. Maddrey, Rulemaking Coordinator
North Carolina Department of Administration
116 W. Jones Street
Raleigh, North Carolina 27603-8003

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **01 NCAC 09, 35**

Dear Mr. Maddrey:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the December 14, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than November 30, 2019.

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

Sincerely,

Abigail M. Hammond
Commission Counsel

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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
December 15, 2016
APO Review: January 03, 2017
Administration, Department of
Total: 14**

RRC Determination: Necessary with substantive public interest

Rule	Determination
01 <u>NCAC 09 .0501</u>	Necessary with substantive public interest
01 <u>NCAC 09 .0502</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0102</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0103</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0201</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0202</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0203</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0204</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0205</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0301</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0302</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0304</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0306</u>	Necessary with substantive public interest
01 <u>NCAC 35 .0307</u>	Necessary with substantive public interest



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

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

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

December 14, 2017

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

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **02 NCAC 52**

Dear Ms. Waggett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the December 14, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than May 31, 2019.

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

Sincerely,

A handwritten signature in cursive script, reading "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

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

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

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

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

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

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

An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
January 19, 2017
APO Review: March 26, 2017**

**Agriculture, Board of
Total: 6**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>02</u> <u>NCAC 52B .0204</u>	Necessary with substantive public interest
<u>02</u> <u>NCAC 52B .0207</u>	Necessary with substantive public interest
<u>02</u> <u>NCAC 52B .0213</u>	Necessary with substantive public interest
<u>02</u> <u>NCAC 52C .0701</u>	Necessary with substantive public interest
<u>02</u> <u>NCAC 52E .0402</u>	Necessary with substantive public interest
<u>02</u> <u>NCAC 52G .0303</u>	Necessary with substantive public interest



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

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

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

December 14, 2017

Jennifer Everett, Rulemaking Coordinator
Department of Environment Quality
Environmental Management Commission
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **15A NCAC 02C**

Dear Ms. Everett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the December 14, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than December 31, 2019.

Please note that the rules set forth in 15A NCAC 02E are not subject to this readoption date. These rules address separate rulemaking needs and will be scheduled for a different readoption date.

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

Sincerely,

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

Abigail M. Hammond
Commission Counsel

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

**RRC DETERMINATION
PERIODIC RULE REVIEW
December 15, 2016
APO Review: January 03, 2017**

**Environmental Management Commission
Total: 77**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 02C .0101</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0102</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0105</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0107</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0108</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0109</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0110</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0111</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0112</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0113</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0114</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0116</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0117</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0118</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0119</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0201</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0202</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0203</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0204</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0206</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0207</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0208</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0209</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0210</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0211</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0217</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0218</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0219</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0220</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0221</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0222</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0223</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0224</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0225</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0226</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0227</u>	Necessary with substantive public interest

<u>15A NCAC 02C .0228</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0229</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0230</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0240</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0241</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0242</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0301</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0302</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0303</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0304</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0305</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0306</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0307</u>	Necessary with substantive public interest
<u>15A NCAC 02C .0308</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0106</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0107</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0301</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0401</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0402</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0501</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0502</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0503</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0504</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0505</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0506</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0507</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0601</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0602</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0603</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0604</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0605</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0606</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0607</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0608</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0609</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0610</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0611</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0612</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0613</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0614</u>	Necessary with substantive public interest
<u>15A NCAC 02E .0615</u>	Necessary with substantive public interest



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

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

Street address:
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Raleigh, NC 27609-6285

December 14, 2017

Jennifer Everett, Rulemaking Coordinator
Department of Environment Quality
Environmental Management Commission
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **15A NCAC 13B**

Dear Ms. Everett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the December 14, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than April 30, 2021.

Please note that the rules set forth in 15A NCAC 13A and 15A NCAC 13C are not subject to this readoption date. Those rules address separate rulemaking needs and will be scheduled for a different readoption date.

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

Sincerely,

Abigail M. Hammond
Commission Counsel

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

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

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

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

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

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

An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
April 20, 2017
APO Review: June 24, 2017**

**Environmental Management Commission
Total: 156**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 13A .0102</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0103</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0104</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0105</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0106</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0107</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0108</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0109</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0110</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0111</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0112</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0113</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0116</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0117</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0118</u>	Necessary with substantive public interest
<u>15A NCAC 13A .0119</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0101</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0102</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0103</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0104</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0105</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0106</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0201</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0202</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0203</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0204</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0301</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0302</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0401</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0402</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0501</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0502</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0503</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0504</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0505</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0508</u>	Necessary with substantive public interest

<u>15A NCAC 13B .0509</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0510</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0531</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0532</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0533</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0534</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0535</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0536</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0537</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0538</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0539</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0540</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0541</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0542</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0543</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0544</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0545</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0546</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0547</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0562</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0563</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0564</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0565</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0566</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0601</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0602</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0701</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0702</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0703</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0704</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0705</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0706</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0831</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0832</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0833</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0834</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0835</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0836</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0837</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0838</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0839</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0840</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0841</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0842</u>	Necessary with substantive public interest

<u>15A NCAC 13B .0843</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0844</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0845</u>	Necessary with substantive public interest
<u>15A NCAC 13B .0846</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1101</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1102</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1103</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1104</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1105</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1106</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1107</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1108</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1109</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1110</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1111</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1201</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1202</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1203</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1204</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1205</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1206</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1207</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1301</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1401</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1402</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1403</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1404</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1405</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1406</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1407</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1408</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1409</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1601</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1602</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1603</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1604</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1617</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1618</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1619</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1620</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1621</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1622</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1623</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1624</u>	Necessary with substantive public interest

<u>15A NCAC 13B .1625</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1626</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1627</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1628</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1629</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1630</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1631</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1632</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1633</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1634</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1635</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1636</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1637</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1680</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1701</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1702</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1703</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1704</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1705</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1706</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1707</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1708</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1709</u>	Necessary with substantive public interest
<u>15A NCAC 13B .1710</u>	Necessary with substantive public interest
<u>15A NCAC 13C .0301</u>	Necessary with substantive public interest
<u>15A NCAC 13C .0302</u>	Necessary with substantive public interest
<u>15A NCAC 13C .0303</u>	Necessary with substantive public interest
<u>15A NCAC 13C .0304</u>	Necessary with substantive public interest
<u>15A NCAC 13C .0305</u>	Necessary with substantive public interest
<u>15A NCAC 13C .0306</u>	Necessary with substantive public interest
<u>15A NCAC 13C .0307</u>	Necessary with substantive public interest
<u>15A NCAC 13C .0308</u>	Necessary with substantive public interest



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

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

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

December 14, 2017

Daniel Collins, Rulemaking Coordinator
North Carolina Psychology Board
895 State Farm Road, Suite 101
Boone, North Carolina 28607

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **21 NCAC 54**

Dear Mr. Collins:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the December 14, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than December 31, 2019.

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

Sincerely,

A handwritten signature in cursive script, reading "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

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

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

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

Clerk's Office
919/431-3000
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Rules Review
Commission
919/431-3000
fax: 919/431-3104

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

An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
September 21, 2017
APO Review: November 25, 2017
Psychology Board
Total: 54**

RRC Determination: Necessary with substantive public interest

Rule	Determination
21 <u>NCAC 54 .1605</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1607</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1608</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1609</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1610</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1611</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1612</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1701</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1702</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1703</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1705</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1706</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1707</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1802</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1803</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1901</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1903</u>	Necessary with substantive public interest
21 <u>NCAC 54 .1904</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2001</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2002</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2005</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2006</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2007</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2008</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2009</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2101</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2102</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2103</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2104</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2202</u>	Necessary with substantive public interest
21 <u>NCAC 54 .2203</u>	Necessary with substantive public interest

<u>21</u>	<u>NCAC 54</u>	<u>.2301</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2302</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2303</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2304</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2305</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2308</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2309</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2311</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2314</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2401</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2402</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2601</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2701</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2703</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2704</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2705</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2706</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2801</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2802</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2803</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2804</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2805</u>	Necessary with substantive public interest
<u>21</u>	<u>NCAC 54</u>	<u>.2806</u>	Necessary with substantive public interest

LIST OF APPROVED PERMANENT RULES
December 14, 2017 Meeting

SOCIAL SERVICES COMMISSION

<u>Correction of Overpayments and Underpayments</u>	10A NCAC 10 .0309
<u>Termination of Approval Based upon an Administrative Acti...</u>	10A NCAC 10 .0313
<u>Approval and Continued Participation in the Subsidized Ch...</u>	10A NCAC 10 .0602
<u>Approval and Continued Participation in the Subsidized Ch...</u>	10A NCAC 10 .0702

MEDICAL CARE COMMISSION

<u>Location</u>	10A NCAC 13B .6001
<u>Roads and Parking</u>	10A NCAC 13B .6002
<u>Access and Safety</u>	10A NCAC 13B .6104
<u>Medical, Surgical and Post-Partum Care Unit</u>	10A NCAC 13B .6201
<u>Special Care Unit</u>	10A NCAC 13B .6202
<u>Neonatal Level I and Level II Nursery Unit</u>	10A NCAC 13B .6203
<u>Neonatal Level III and Level IV Nursery</u>	10A NCAC 13B .6204
<u>Psychiatric Unit</u>	10A NCAC 13B .6205
<u>Surgical Department Requirements</u>	10A NCAC 13B .6206
<u>Obstetrical Department Services</u>	10A NCAC 13B .6208
<u>Emergency Services</u>	10A NCAC 13B .6209
<u>Imaging Services</u>	10A NCAC 13B .6210
<u>Laboratory Services</u>	10A NCAC 13B .6211
<u>Morgue</u>	10A NCAC 13B .6212
<u>Pharmacy Services</u>	10A NCAC 13B .6213
<u>Dietary Services</u>	10A NCAC 13B .6214
<u>Administration</u>	10A NCAC 13B .6215
<u>Medical Records Services</u>	10A NCAC 13B .6216
<u>Central Medical and Surgical Supply Services</u>	10A NCAC 13B .6217
<u>General Storage</u>	10A NCAC 13B .6218
<u>Laundry Services</u>	10A NCAC 13B .6219
<u>Physical Rehabilitation Services</u>	10A NCAC 13B .6220
<u>Engineering Services</u>	10A NCAC 13B .6221
<u>Waste Processing</u>	10A NCAC 13B .6222
<u>Details and Finishes</u>	10A NCAC 13B .6223
<u>Elevator Requirements</u>	10A NCAC 13B .6224
<u>Mechanical Requirements</u>	10A NCAC 13B .6225
<u>Plumbing and Other Piping Systems Requirements</u>	10A NCAC 13B .6226
<u>Electrical Requirements</u>	10A NCAC 13B .6227
<u>Administrator</u>	10A NCAC 13D .2201
<u>Definitions</u>	10A NCAC 13J .0901
<u>Evaluation</u>	10A NCAC 13J .1004
<u>Client Rights and Responsibilities</u>	10A NCAC 13J .1007
<u>In-Home Aide Services</u>	10A NCAC 13J .1107
<u>Supervision and Competency of In-Home Aides or Other In-H...</u>	10A NCAC 13J .1110
<u>Case Review and Plan of Care</u>	10A NCAC 13J .1202
<u>Content of Record</u>	10A NCAC 13J .1402

<u>Scope of Services</u>	10A NCAC 13J .1502
<u>Ground Ambulance Vehicle Manufacturing Standards</u>	10A NCAC 13P .0224
<u>Components of Medical Oversight for Air Medical Programs</u>	10A NCAC 13P .0410

MENTAL HEALTH, COMMISSION FOR

<u>LME-MCO Oversight of Forensic Evaluator Program</u>	10A NCAC 27H .0205
<u>Termination of Certification</u>	10A NCAC 27H .0206

PUBLIC HEALTH, COMMISSION FOR

<u>Reportable Diseases and Conditions</u>	10A NCAC 41A .0101
<u>Control Measures HIV</u>	10A NCAC 41A .0202
<u>Vendor Violations and Sanctions</u>	10A NCAC 43D .0710
<u>Administration</u>	10A NCAC 43G .0108
<u>Eligibility</u>	10A NCAC 43G .0110
<u>Service Plan - Service Delivery</u>	10A NCAC 43G .0111

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<u>Location and Mailing Address</u>	11 NCAC 01 .0103
<u>Inquiries and Information</u>	11 NCAC 04 .0116
<u>Qualifications</u>	11 NCAC 05A .0502
<u>Establishment of Fire Department</u>	11 NCAC 05A .0503
<u>Primary Personnel</u>	11 NCAC 05A .0504
<u>Alarm and Communications</u>	11 NCAC 05A .0506
<u>Records and Documents</u>	11 NCAC 05A .0507
<u>Fire Station</u>	11 NCAC 05A .0509
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<u>Definitions</u>	11 NCAC 05A .0901
<u>Purpose</u>	11 NCAC 05A .0902
<u>Rating of Fire District</u>	11 NCAC 05A .0903
<u>Facilities</u>	11 NCAC 05A .0904
<u>Apparatus Specifications and Equipment</u>	11 NCAC 05A .0905
<u>Staffing Levels</u>	11 NCAC 05A .0906
<u>Training</u>	11 NCAC 05A .0907
<u>Communications and Alarms</u>	11 NCAC 05A .0908
<u>Response to Structure Fires</u>	11 NCAC 05A .0909
<u>Incident Reporting</u>	11 NCAC 05A .0910
<u>Records</u>	11 NCAC 05A .0911
<u>Non-Compliance</u>	11 NCAC 05A .0912
<u>Rule-Making and Hearing Procedures</u>	11 NCAC 08 .0903
<u>Transmittal Header</u>	11 NCAC 10 .1114
<u>Transmittal Header</u>	11 NCAC 10 .1209
<u>Location, Mailing Address, and Telephone</u>	11 NCAC 17 .0103

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<u>Transportation from State ABC Warehouse</u>	14B NCAC 15A .1303
<u>Direct Shipments</u>	14B NCAC 15A .1304
<u>Permit Required to Sell Alcoholic Beverages</u>	14B NCAC 15A .1402
<u>Special Orders</u>	14B NCAC 15A .1403

<u>Mixed Beverages Tax Stamp</u>	14B NCAC 15A .1901
<u>Prior Approval from ABC Commission</u>	14B NCAC 15A .2101
<u>Retail Sales at Distillery's Permitted Premises</u>	14B NCAC 15A .2102
<u>Distillery Record-Keeping</u>	14B NCAC 15A .2103
<u>Antique Spirituous Liquor Regulated</u>	14B NCAC 15B .0523

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<u>Fees for Unarmed Guard Security Registration</u>	14B NCAC 16 .0702
<u>Fees for Armed Security Guard Firearm Registration</u>	14B NCAC 16 .0802
<u>Renewal of Armed Security Guard Firearm Registration Permit</u>	14B NCAC 16 .0806
<u>Training Requirements for Armed Security Guards</u>	14B NCAC 16 .0807
<u>Fees for Trainer Certificate</u>	14B NCAC 16 .0903
<u>Fees for Unarmed Armored Car Services Guard Registration</u>	14B NCAC 16 .1302
<u>Fees for Armed Armored Car Service Guard Firearm Registra...</u>	14B NCAC 16 .1402

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<u>Fees For Licenses</u>	14B NCAC 17 .0203
<u>Fees For Registration</u>	14B NCAC 17 .0302

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<u>Incorporation by Reference</u>	15A NCAC 02D .0104
<u>Mailing List</u>	15A NCAC 02D .0105
<u>Classification of Air Pollution Sources</u>	15A NCAC 02D .0201
<u>Registration of Air Pollution Sources</u>	15A NCAC 02D .0202
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<u>Episode Criteria</u>	15A NCAC 02D .0302
<u>Emission Reduction Plans</u>	15A NCAC 02D .0303
<u>Preplanned Abatement Program</u>	15A NCAC 02D .0304
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<u>Emission Reduction Plan: Warning Level</u>	15A NCAC 02D .0306
<u>Emission Reduction Plan: Emergency Level</u>	15A NCAC 02D .0307
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<u>Carbon Monoxide</u>	15A NCAC 02D .0404
<u>Ozone</u>	15A NCAC 02D .0405
<u>Nitrogen Dioxide</u>	15A NCAC 02D .0407
<u>Lead</u>	15A NCAC 02D .0408
<u>PM10 Particulate Matter</u>	15A NCAC 02D .0409
<u>PM2.5 Particulate Matter</u>	15A NCAC 02D .0410
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<u>Applicability</u>	15A NCAC 02D .1302
<u>Definitions</u>	15A NCAC 02D .1303
<u>Oxygen Content Standard</u>	15A NCAC 02D .1304
<u>Measurement and Enforcement</u>	15A NCAC 02D .1305
<u>Purpose, Scope, and Applicability</u>	15A NCAC 02D .2001

<u>Definitions</u>	15A NCAC 02D .2002
<u>Transportation Conformity Determination</u>	15A NCAC 02D .2003
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<u>Purpose</u>	15A NCAC 02D .2201
<u>Definitions</u>	15A NCAC 02D .2202
<u>Final Action on Consent Orders</u>	15A NCAC 02D .2204
<u>Notification of Rights to Contest Special Orders Issued W...</u>	15A NCAC 02D .2205
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<u>Definitions</u>	15A NCAC 02T .1502
<u>Permitting by Regulation</u>	15A NCAC 02T .1503
<u>Application Submittal</u>	15A NCAC 02T .1504
<u>Design Criteria</u>	15A NCAC 02T .1505
<u>Setbacks</u>	15A NCAC 02T .1506
<u>Closure Requirements</u>	15A NCAC 02T .1507

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<u>Purpose</u>	15A NCAC 07H .2201
<u>Approval Procedures</u>	15A NCAC 07H .2202
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<u>Specific Conditions</u>	15A NCAC 07H .2205

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<u>Application for Certification</u>	15A NCAC 27 .0301
<u>Well Contractor Examinations</u>	15A NCAC 27 .0410
<u>Time and Place of Examination</u>	15A NCAC 27 .0420
<u>Examination Results and Issuance of Certificates</u>	15A NCAC 27 .0440

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<u>Retroactive Reimbursement</u>	19A NCAC 06C .0107
<u>State Financial Assistance Construction Standards</u>	19A NCAC 06C .0108
<u>Project Application Procedures</u>	19A NCAC 06C .0109
<u>Environmental Assessment</u>	19A NCAC 06C .0110
<u>Project Approval Procedures</u>	19A NCAC 06C .0111
<u>Allowable Project Costs</u>	19A NCAC 06C .0112
<u>Sponsor Certification of Local Matching Funds</u>	19A NCAC 06C .0123
<u>Limits on Use of Allocated Funds</u>	19A NCAC 06C .0124
<u>Time Limits on Construction of the Project</u>	19A NCAC 06C .0125
<u>Request for Extension of Time to Complete Project</u>	19A NCAC 06C .0126
<u>Sanctions for Non-Performance on State Aid Projects</u>	19A NCAC 06C .0127
<u>Department to Act As Agent for Federal Grant Programs</u>	19A NCAC 06C .0129
<u>Hospital Heliports</u>	19A NCAC 06C .0134
<u>Promotion of Aviation Facility Safety</u>	19A NCAC 06C .0301
<u>Project Application and Approval Procedures</u>	19A NCAC 06C .0304
<u>Correction of Aviation Safety Hazards</u>	19A NCAC 06C .0401
<u>Project Application and Approval</u>	19A NCAC 06C .0403

<u>Sponsor's Responsibilities</u>	19A NCAC 06C .0408
<u>Recipients Eligibility Standards</u>	19A NCAC 06C .0502
<u>Project Eligibility Standards</u>	19A NCAC 06C .0503
<u>Trespass on State Airports</u>	19A NCAC 06C .0703
<u>Prohibition Against Ground Vehicles on State Airports</u>	19A NCAC 06C .0704
<u>Closure of State Airports During Hours of Darkness</u>	19A NCAC 06C .0705
<u>Commercial Flight Operations Prohibited Without Approval</u>	19A NCAC 06C .0706

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<u>Fees, Access to Forms, and Renewals</u>	21 NCAC 06N .0101

**RRC Determination
Periodic Rule Review
December 14, 2017
Necessary with substantive public interest**

Social Services Commission

<u>10A NCAC 70M .0201</u>	<u>15A NCAC 03J .0110</u>	<u>15A NCAC 03K .0208</u>
<u>10A NCAC 70M .0301</u>	<u>15A NCAC 03J .0111</u>	<u>15A NCAC 03K .0209</u>
<u>10A NCAC 70M .0302</u>	<u>15A NCAC 03J .0202</u>	<u>15A NCAC 03K .0301</u>
<u>10A NCAC 70M .0304</u>	<u>15A NCAC 03J .0203</u>	<u>15A NCAC 03K .0302</u>
<u>10A NCAC 70M .0401</u>	<u>15A NCAC 03J .0204</u>	<u>15A NCAC 03K .0304</u>
<u>10A NCAC 70M .0402</u>	<u>15A NCAC 03J .0206</u>	<u>15A NCAC 03K .0305</u>
<u>10A NCAC 70M .0403</u>	<u>15A NCAC 03J .0207</u>	<u>15A NCAC 03K .0401</u>
<u>10A NCAC 70M .0404</u>	<u>15A NCAC 03J .0208</u>	<u>15A NCAC 03K .0402</u>
<u>10A NCAC 70M .0405</u>	<u>15A NCAC 03J .0209</u>	<u>15A NCAC 03K .0403</u>
<u>10A NCAC 70M .0501</u>	<u>15A NCAC 03J .0301</u>	<u>15A NCAC 03K .0404</u>
<u>10A NCAC 70M .0502</u>	<u>15A NCAC 03J .0302</u>	<u>15A NCAC 03K .0405</u>
<u>10A NCAC 70M .0601</u>	<u>15A NCAC 03J .0303</u>	<u>15A NCAC 03K .0501</u>
<u>10A NCAC 70M .0602</u>	<u>15A NCAC 03J .0304</u>	<u>15A NCAC 03K .0502</u>
<u>10A NCAC 70M .0603</u>	<u>15A NCAC 03J .0305</u>	<u>15A NCAC 03K .0503</u>
<u>10A NCAC 70M .0604</u>	<u>15A NCAC 03J .0306</u>	<u>15A NCAC 03K .0504</u>
	<u>15A NCAC 03J .0401</u>	<u>15A NCAC 03K .0505</u>
	<u>15A NCAC 03J .0402</u>	<u>15A NCAC 03K .0507</u>
	<u>15A NCAC 03J .0501</u>	<u>15A NCAC 03K .0508</u>

Marine Fisheries Commission

<u>15A NCAC 03I .0101</u>	<u>15A NCAC 03J .0502</u>	<u>15A NCAC 03L .0101</u>
<u>15A NCAC 03I .0104</u>	<u>15A NCAC 03J .0503</u>	<u>15A NCAC 03L .0102</u>
<u>15A NCAC 03I .0105</u>	<u>15A NCAC 03J .0504</u>	<u>15A NCAC 03L .0103</u>
<u>15A NCAC 03I .0108</u>	<u>15A NCAC 03J .0505</u>	<u>15A NCAC 03L .0105</u>
<u>15A NCAC 03I .0109</u>	<u>15A NCAC 03K .0101</u>	<u>15A NCAC 03L .0201</u>
<u>15A NCAC 03I .0113</u>	<u>15A NCAC 03K .0102</u>	<u>15A NCAC 03L .0202</u>
<u>15A NCAC 03I .0114</u>	<u>15A NCAC 03K .0103</u>	<u>15A NCAC 03L .0203</u>
<u>15A NCAC 03I .0115</u>	<u>15A NCAC 03K .0104</u>	<u>15A NCAC 03L .0204</u>
<u>15A NCAC 03I .0118</u>	<u>15A NCAC 03K .0105</u>	<u>15A NCAC 03L .0205</u>
<u>15A NCAC 03I .0120</u>	<u>15A NCAC 03K .0106</u>	<u>15A NCAC 03L .0207</u>
<u>15A NCAC 03I .0122</u>	<u>15A NCAC 03K .0107</u>	<u>15A NCAC 03L .0208</u>
<u>15A NCAC 03J .0101</u>	<u>15A NCAC 03K .0108</u>	<u>15A NCAC 03L .0301</u>
<u>15A NCAC 03J .0102</u>	<u>15A NCAC 03K .0109</u>	<u>15A NCAC 03L .0302</u>
<u>15A NCAC 03J .0103</u>	<u>15A NCAC 03K .0111</u>	<u>15A NCAC 03M .0101</u>
<u>15A NCAC 03J .0104</u>	<u>15A NCAC 03K .0201</u>	<u>15A NCAC 03M .0102</u>
<u>15A NCAC 03J .0105</u>	<u>15A NCAC 03K .0202</u>	<u>15A NCAC 03M .0103</u>
<u>15A NCAC 03J .0106</u>	<u>15A NCAC 03K .0204</u>	<u>15A NCAC 03M .0201</u>
<u>15A NCAC 03J .0108</u>	<u>15A NCAC 03K .0205</u>	<u>15A NCAC 03M .0202</u>
<u>15A NCAC 03J .0109</u>	<u>15A NCAC 03K .0207</u>	<u>15A NCAC 03M .0204</u>

15A NCAC 03M .0205
15A NCAC 03M .0301
15A NCAC 03M .0302
15A NCAC 03M .0501
15A NCAC 03M .0502
15A NCAC 03M .0503
15A NCAC 03M .0506
15A NCAC 03M .0507
15A NCAC 03M .0509
15A NCAC 03M .0510
15A NCAC 03M .0511
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15A NCAC 03M .0516
15A NCAC 03M .0517
15A NCAC 03M .0518
15A NCAC 03M .0519
15A NCAC 03M .0520
15A NCAC 03M .0521
15A NCAC 03N .0104
15A NCAC 03N .0105
15A NCAC 03O .0101
15A NCAC 03O .0102
15A NCAC 03O .0103
15A NCAC 03O .0104
15A NCAC 03O .0105
15A NCAC 03O .0106
15A NCAC 03O .0107
15A NCAC 03O .0108
15A NCAC 03O .0109
15A NCAC 03O .0110
15A NCAC 03O .0111
15A NCAC 03O .0112
15A NCAC 03O .0113
15A NCAC 03O .0114
15A NCAC 03O .0201
15A NCAC 03O .0202
15A NCAC 03O .0203
15A NCAC 03O .0204
15A NCAC 03O .0205
15A NCAC 03O .0206
15A NCAC 03O .0207
15A NCAC 03O .0208
15A NCAC 03O .0209
15A NCAC 03O .0210
15A NCAC 03O .0211
15A NCAC 03O .0301
15A NCAC 03O .0302
15A NCAC 03O .0303
15A NCAC 03O .0401
15A NCAC 03O .0402
15A NCAC 03O .0403
15A NCAC 03O .0404
15A NCAC 03O .0405
15A NCAC 03O .0406
15A NCAC 03O .0501
15A NCAC 03O .0502
15A NCAC 03O .0503
15A NCAC 03O .0504

15A NCAC 03P .0101
15A NCAC 03P .0102
15A NCAC 03P .0201
15A NCAC 03P .0202
15A NCAC 03P .0203
15A NCAC 03P .0301
15A NCAC 03P .0302
15A NCAC 03P .0303
15A NCAC 03P .0304

**Marine Fisheries Commission/
Wildlife Resources Commission**

15A NCAC 03Q .0101
15A NCAC 03Q .0102
15A NCAC 03Q .0103
15A NCAC 03Q .0104
15A NCAC 03Q .0105
15A NCAC 03Q .0106
15A NCAC 03Q .0107
15A NCAC 03Q .0108
15A NCAC 03Q .0109

Marine Fisheries Commission

15A NCAC 03R .0105
15A NCAC 03R .0112

Wildlife Resources Commission

15A NCAC 10B .0101
15A NCAC 10B .0102
15A NCAC 10B .0105
15A NCAC 10B .0106
15A NCAC 10B .0107
15A NCAC 10B .0109
15A NCAC 10B .0110
15A NCAC 10B .0111
15A NCAC 10B .0113
15A NCAC 10B .0114
15A NCAC 10B .0115
15A NCAC 10B .0116
15A NCAC 10B .0117
15A NCAC 10B .0118
15A NCAC 10B .0119
15A NCAC 10B .0120
15A NCAC 10B .0121
15A NCAC 10B .0122
15A NCAC 10B .0123
15A NCAC 10B .0124
15A NCAC 10B .0125
15A NCAC 10B .0126
15A NCAC 10B .0127
15A NCAC 10B .0201
15A NCAC 10B .0202
15A NCAC 10B .0203
15A NCAC 10B .0205
15A NCAC 10B .0206
15A NCAC 10B .0207
15A NCAC 10B .0208
15A NCAC 10B .0209
15A NCAC 10B .0210

15A NCAC 10B .0211
15A NCAC 10B .0212
15A NCAC 10B .0213
15A NCAC 10B .0214
15A NCAC 10B .0215
15A NCAC 10B .0216
15A NCAC 10B .0217
15A NCAC 10B .0219
15A NCAC 10B .0220
15A NCAC 10B .0221
15A NCAC 10B .0222
15A NCAC 10B .0223
15A NCAC 10B .0225
15A NCAC 10B .0301
15A NCAC 10B .0302
15A NCAC 10B .0303
15A NCAC 10B .0304
15A NCAC 10B .0305
15A NCAC 10B .0401
15A NCAC 10B .0402
15A NCAC 10B .0403
15A NCAC 10B .0404
15A NCAC 10B .0405
15A NCAC 10B .0406
15A NCAC 10B .0409

**Marine Fisheries Commission/
Wildlife Resources Commission**

15A NCAC 10C .0101
15A NCAC 10C .0102
15A NCAC 10C .0103
15A NCAC 10C .0104
15A NCAC 10C .0105
15A NCAC 10C .0106
15A NCAC 10C .0107
15A NCAC 10C .0108
15A NCAC 10C .0109
15A NCAC 10C .0110
15A NCAC 10C .0111

Wildlife Resources Commission

15A NCAC 10C .0201
15A NCAC 10C .0203
15A NCAC 10C .0205
15A NCAC 10C .0206
15A NCAC 10C .0208
15A NCAC 10C .0209
15A NCAC 10C .0211
15A NCAC 10C .0212
15A NCAC 10C .0213
15A NCAC 10C .0214
15A NCAC 10C .0215
15A NCAC 10C .0216
15A NCAC 10C .0217
15A NCAC 10C .0301
15A NCAC 10C .0302
15A NCAC 10C .0304
15A NCAC 10C .0305
15A NCAC 10C .0306

15A NCAC 10C .0307
15A NCAC 10C .0308
15A NCAC 10C .0309
15A NCAC 10C .0310
15A NCAC 10C .0311
15A NCAC 10C .0312
15A NCAC 10C .0313
15A NCAC 10C .0314
15A NCAC 10C .0315
15A NCAC 10C .0316
15A NCAC 10C .0317
15A NCAC 10C .0318
15A NCAC 10C .0319
15A NCAC 10C .0320

15A NCAC 10C .0401
15A NCAC 10C .0402
15A NCAC 10C .0404
15A NCAC 10C .0405
15A NCAC 10C .0406
15A NCAC 10C .0407
15A NCAC 10C .0501
15A NCAC 10C .0502
15A NCAC 10C .0503
15A NCAC 10C .0601
15A NCAC 10C .0602
15A NCAC 10C .0603

Department of
15A NCAC 13B .1501
15A NCAC 13B .1502
15A NCAC 13B .1503
15A NCAC 13B .1504
15A NCAC 13B .1505
15A NCAC 13B .1506
15A NCAC 13B .1507
15A NCAC 13B .1508
15A NCAC 13B .1512
15A NCAC 13B .1513
15A NCAC 13B .1514

Environmental Quality,

RRC Determination
Periodic Rule Review
December 14, 2017
Necessary without substantive public interest

Public Health, Commission for

10A NCAC 41A .0101
10A NCAC 41A .0102
10A NCAC 41A .0103
10A NCAC 41A .0104
10A NCAC 41A .0105
10A NCAC 41A .0106
10A NCAC 41A .0201
10A NCAC 41A .0202
10A NCAC 41A .0203
10A NCAC 41A .0204
10A NCAC 41A .0205
10A NCAC 41A .0206
10A NCAC 41A .0207
10A NCAC 41A .0208
10A NCAC 41A .0209
10A NCAC 41A .0210
10A NCAC 41A .0211
10A NCAC 41A .0212
10A NCAC 41A .0213
10A NCAC 41A .0214
10A NCAC 41A .0301
10A NCAC 41A .0302
10A NCAC 41A .0303
10A NCAC 41A .0401
10A NCAC 41A .0402
10A NCAC 41A .0403
10A NCAC 41A .0404
10A NCAC 41A .0405
10A NCAC 41A .0406
10A NCAC 41A .0501
10A NCAC 41A .0801
10A NCAC 41A .0901
10A NCAC 41A .0902
10A NCAC 41A .0903
10A NCAC 41A .0904
10A NCAC 41A .0905
10A NCAC 41A .0906

10A NCAC 41A .0907
10A NCAC 41B .0101
10A NCAC 41B .0201
10A NCAC 41B .0202
10A NCAC 41B .0203
10A NCAC 41B .0204
10A NCAC 41B .0205
10A NCAC 41B .0206
10A NCAC 41B .0207
10A NCAC 41B .0208
10A NCAC 41B .0209
10A NCAC 41B .0301
10A NCAC 41B .0302
10A NCAC 41B .0303
10A NCAC 41B .0304
10A NCAC 41B .0306
10A NCAC 41B .0307
10A NCAC 41B .0308
10A NCAC 41B .0313
10A NCAC 41B .0322
10A NCAC 41B .0323
10A NCAC 41B .0401
10A NCAC 41B .0402
10A NCAC 41B .0403
10A NCAC 41B .0404
10A NCAC 41B .0405
10A NCAC 41B .0406
10A NCAC 41B .0407
10A NCAC 41B .0501
10A NCAC 41B .0502
10A NCAC 41B .0503
10A NCAC 41D .0101
10A NCAC 41D .0102
10A NCAC 41D .0103
10A NCAC 41D .0104
10A NCAC 41D .0105
10A NCAC 41F .0101
10A NCAC 41F .0102

10A NCAC 41F .0103
10A NCAC 41G .0101
10A NCAC 41G .0103

Social Services Commission

10A NCAC 70M .0101

Marine Fisheries Commission

15A NCAC 03H .0102
15A NCAC 03H .0103
15A NCAC 03I .0102
15A NCAC 03I .0103
15A NCAC 03I .0107
15A NCAC 03I .0110
15A NCAC 03I .0116
15A NCAC 03I .0119
15A NCAC 03I .0121
15A NCAC 03K .0110
15A NCAC 03M .0508
15A NCAC 03M .0512
15A NCAC 03N .0101
15A NCAC 03N .0103
15A NCAC 03N .0106
15A NCAC 03O .0506
15A NCAC 03Q .0201
15A NCAC 03Q .0202
15A NCAC 03R .0101
15A NCAC 03R .0102
15A NCAC 03R .0103
15A NCAC 03R .0104
15A NCAC 03R .0106
15A NCAC 03R .0107
15A NCAC 03R .0108
15A NCAC 03R .0109
15A NCAC 03R .0110
15A NCAC 03R .0111
15A NCAC 03R .0113
15A NCAC 03R .0114

15A NCAC 03R .0115
15A NCAC 03R .0116
15A NCAC 03R .0117
15A NCAC 03R .0118
15A NCAC 03R .0201
15A NCAC 03R .0202

**Environmental Quality,
Department of**
15A NCAC 13B .1510

Local Government Commission

20 NCAC 03 .0101
20 NCAC 03 .0102
20 NCAC 03 .0103
20 NCAC 03 .0104
20 NCAC 03 .0105
20 NCAC 03 .0106
20 NCAC 03 .0107
20 NCAC 03 .0108
20 NCAC 03 .0109
20 NCAC 03 .0110
20 NCAC 03 .0111
20 NCAC 03 .0112
20 NCAC 03 .0202
20 NCAC 03 .0203
20 NCAC 03 .0204
20 NCAC 03 .0205
20 NCAC 03 .0206
20 NCAC 03 .0207
20 NCAC 03 .0208

20 NCAC 03 .0301
20 NCAC 03 .0302
20 NCAC 03 .0303
20 NCAC 03 .0304
20 NCAC 03 .0305
20 NCAC 03 .0401
20 NCAC 03 .0402
20 NCAC 03 .0405
20 NCAC 03 .0406
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20 NCAC 03 .0408
20 NCAC 03 .0501
20 NCAC 03 .0502
20 NCAC 03 .0503
20 NCAC 03 .0504
20 NCAC 03 .0505
20 NCAC 03 .0506
20 NCAC 03 .0601
20 NCAC 03 .0701
20 NCAC 03 .0702
20 NCAC 03 .0703
20 NCAC 03 .0704
20 NCAC 03 .0705
20 NCAC 03 .0706
20 NCAC 03 .0707
20 NCAC 03 .0708
20 NCAC 03 .0709
20 NCAC 03 .0801
20 NCAC 03 .0802
20 NCAC 03 .0803
20 NCAC 03 .0901

20 NCAC 03 .0903
20 NCAC 03 .0904
20 NCAC 03 .0905
20 NCAC 03 .0906
20 NCAC 03 .0907
20 NCAC 03 .1001
20 NCAC 03 .1002
20 NCAC 03 .1003
20 NCAC 03 .1004
20 NCAC 03 .1005
20 NCAC 03 .1006
20 NCAC 03 .1007
20 NCAC 03 .1008
20 NCAC 03 .1009

**Capital Facilities Finance
Agency**

20 NCAC 09 .0101
20 NCAC 09 .0102
20 NCAC 09 .0201
20 NCAC 09 .0202
20 NCAC 09 .0301
20 NCAC 09 .0401
20 NCAC 09 .0403
20 NCAC 09 .0501
20 NCAC 09 .0502
20 NCAC 09 .0601
20 NCAC 09 .0602

**RRC Determination
Periodic Rule Review
December 14, 2017
Unnecessary**

Public Health, Commission for

10A NCAC 41A .0602
10A NCAC 41A .0603
10A NCAC 41A .0604
10A NCAC 41A .0605
10A NCAC 41A .0701
10A NCAC 41B .0320
10A NCAC 41B .0321

Marine Fisheries Commission

15A NCAC 03S .0101
15A NCAC 03S .0102
15A NCAC 03S .0103

**Environmental Quality,
Department of**

15A NCAC 13B .1511

Local Government Commission

20 NCAC 03 .0403
20 NCAC 03 .0902

**Capital Facilities Finance
Agency**

20 NCAC 09 .0402

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>			
16/17	DHR	12119/02738	11/14/2017	Bessie Carter	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Elkins
17	DOJ	01085	11/29/2017	Andre Tryon Caldwell	v.	NC Criminal Justice Education and Training Standards Commission	Bawtinheimer
17	DOJ	03200	11/7/2017; 11/8/2017	Carson Tate Puckett	v.	NC Sheriffs Education and Training Standards Commission	Sutton
17	DOJ	03362	11/3/2017	Edward W Hurley Jr	v.	NC Sheriffs Education and Training Standards Commission	Mann
17	DOJ	05697	11/13/2017	Arthur Marvin Dunkes III	v.	NC Department of Justice Company Police Program	Malherbe
17	DOJ	05846	11/6/2017	David Lee Koger	v.	North Carolina Alarm Sytems Licensing Board	Bawtinheimer
17	DOJ	06754	11/7/2017	Creo M McIver II	v.	NC Private Protective Services Board	Bawtinheimer
16	EHR	03414	11/14/2017	Mr. John Townson Director Environmental Management Div FOR: MCIEAST/Marine Corps Base Camp Lejeune NC	v.	State of North Carolina Department of Environmental Quality Division of Air Quality	Overby
16	EHR	11818	11/30/2017	Jerry Taylor	v.	NC Department of Environmental Quality	Elkins
17	EHR	03071/04540	11/16/2017	Concerned Citizens of Richmond County	v.	North Carolina Department of Environmental Quality Division of Air Quality/NC Department of Environmental Quality, Division of Air Quality	Sutton

CONTESTED CASE DECISIONS

16	INS	10836	11/28/2017; 11/29/2017	NC Department of Insurance Agent Services Division	v. Christopher David Manning	Ward
17	OSP	01503	11/7/2017	Luenetta Lewis	v. Washington County Department of Social Services	Ward
17	OSP	03164	11/16/2017	William Austin Hardison	v. North Carolina Department of Public Safety, North Carolina State Highway Patrol	Overby
<u>UNPUBLISHED</u>						
16	CSE	11556	11/17/2017	Archie T McLeod	v. NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
16	DHR	12381	11/16/2017	Blue Sky Ped of Ashe Burlington Ped PA Cary Ped Ctr PA Coastal Children's Clinic Inc Goldsboro Ped PA Haywood Ped & Adolescent Med Group PA NC Acd of Family Phy Inc NC Ped Soc Inc & Sandhills Ped Inc	v. Nc Department Of Health And Human Services Division of Medical Assistance	Ward
17	DHR	03795	11/3/2017	Cathy A Davis	v. Orange County DSS AFDC/Work First	Lassiter
17	DHR	04495	11/1/2017	Francis Kiernan	v. Pender County Health Department	Ward
17	DHR	05597	11/6/2017	Ken Gordon Gamekeeper Restaurant	v. NC DHHS Watauga Health Department	Sutton
17	DHR	06020	11/16/2017	Jaroslav Kozel	v. NC Department of Health and Human Services	Sutton
17	DHR	06038	11/27/2017	Elite Care Services Inc Christopher Bennett MHL #084-067	v. NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification	Malherbe
17	DHR	06470	11/30/2017	Yvette Leigh	v. Department of Health and Human Services, Division of Health Service Regulation	Overby
17	DHR	06739	11/21/2017	Verena Denise Taylor	v. Department of Health and Human Services	Lassiter
17	DHR	06876	11/27/2017	Barbara Jeanette Davis	v. Department of Health and Human Services	Lassiter
17	DOT	06205	11/30/2017	Melissa Donavant	v. North Carolina Department of Transportation	May
17	EDC	06953	11/9/2017	Tonesha Monique Mayo	v. Glenn Elementary School and Mr. Cornelius Redfearn & DPS	Ward
17	EHR	01564	11/3/2017	Town of Atlantic Beach	v. NC Department of Environmental Quality, Division of Marine Fisheries	Lassiter

CONTESTED CASE DECISIONS

17	INS	05504	11/28/2017	Gerald D Surh	v.	North Carolina State Health Plan	Overby
17	INS	05798	11/29/2017	Xiao O Fu (McLinton before) owner/president of Carrboro Family Clinic PA	v.	BCBS NC CEO Mr. Brad Wilson	Elkins
17	OSP	06960	11/27/2017	Dean William Guite	v.	North Carolina Office of State Human Resources (NCDPS)	Lassiter