

NORTH CAROLINA REGISTER

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March 1, 2018

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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
32:14	01/16/18	12/19/17	01/31/18	03/19/18	03/20/18	04/19/18	05/01/18	05/2018	10/13/18
32:15	02/01/18	01/10/18	02/16/18	04/02/18	04/20/18	05/17/18	06/01/18	01/2019	10/29/18
32:16	02/15/18	01/25/18	03/02/18	04/16/18	04/20/18	05/17/18	06/01/18	01/2019	11/12/18
32:17	03/01/18	02/08/18	03/16/18	04/30/18	05/21/18	06/21/18	07/01/18	01/2019	11/26/18
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
32:19	04/02/18	03/09/18	04/17/18	06/01/18	06/20/18	07/19/18	08/01/18	01/2019	12/28/18
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
32:21	05/01/18	04/10/18	05/16/18	07/02/18	07/20/18	08/16/18	09/01/18	01/2019	01/26/19
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32:23	06/01/18	05/10/18	06/16/18	07/31/18	08/20/18	09/20/18	10/01/18	01/2019	02/26/19
32:24	06/15/18	05/24/18	06/30/18	08/14/18	08/20/18	09/20/18	10/01/18	01/2019	03/12/19
33:01	07/02/18	06/11/18	07/17/18	08/31/18	09/20/18	10/18/18	11/01/18	01/2019	03/29/19
33:02	07/16/18	06/22/18	07/31/18	09/14/18	09/20/18	10/18/18	11/01/18	01/2019	04/12/19
33:03	08/01/18	07/11/18	08/16/18	10/01/18	10/22/18	11/15/18	12/01/18	01/2019	04/28/19
33:04	08/15/18	07/25/18	08/30/18	10/15/18	10/22/18	11/15/18	12/01/18	01/2019	05/12/19
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
33:07	10/01/18	09/10/18	10/16/18	11/30/18	12/20/18	01/17/19	02/01/19	05/2020	06/28/19
33:08	10/15/18	09/24/18	10/30/18	12/14/18	12/20/18	01/17/19	02/01/19	05/2020	07/12/19
33:09	11/01/18	10/11/18	11/16/18	12/31/18	01/22/19	02/21/19	03/01/19	05/2020	07/29/19
33:10	11/15/18	10/24/18	11/30/18	01/14/19	01/22/19	02/21/19	03/01/19	05/2020	08/12/19
33:11	12/03/18	11/07/18	12/18/18	02/01/19	02/20/19	03/21/19	04/01/19	05/2020	08/30/19
33:12	12/17/18	11/26/18	01/01/19	02/15/19	02/20/19	03/21/19	04/01/19	05/2020	09/13/19

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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

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



State of North Carolina

ROY COOPER
GOVERNOR

January 26, 2018

EXECUTIVE ORDER NO. 36

EXTENSION OF EXECUTIVE ORDER NO. 30

WHEREAS, Executive Order No. 30, *Temporary Suspension of Motor Vehicle Regulations to Ensure Adequate Fuel Supplies throughout the State*, which was issued on December 28, 2017, aimed to ensure that adequate propane and heating fuels were available in the State of North Carolina due to an extended period of cold weather in this State and other parts of the United States; and

WHEREAS, Executive Order No. 30 is set to expire on January 28, 2018; and

WHEREAS, the waivers and suspensions included in Executive Order No. 30 are needed for an additional thirty (30) days to address the ongoing emergency conditions that disrupted fuel deliveries to residential and commercial establishments and created an increased demand for propane and heating fuels; and

WHEREAS, 49 C.F.R. § 390.23(a)(1)(ii)(B) authorizes a state governor to extend the suspension of the regulations set forth in 49 C.F.R. Parts 300-399 for an additional thirty (30) day period if that governor determines that emergency conditions continue to exist; and

WHEREAS, I have determined that Executive Order No. 30 needs to remain in place to allow for the continued, expedited movement of vehicles transporting propane and heating fuels within the State.

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

Section 1.

Pursuant to 49 C.F.R. § 390.23(a)(1)(ii)(B), I hereby determine that the emergency conditions that warranted Executive Order No. 30, *Temporary Suspension of Motor Vehicle Regulations to Ensure Adequate Fuel Supplies throughout the State*, which was issued on December 28, 2017, continue to exist.

Section 2.

Pursuant to 49 C.F.R. § 390.23(a)(1)(ii)(B), Executive Order No. 30 is hereby extended for an additional thirty (30) days.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 26th day of January in the year of our Lord two thousand and eighteen.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

January 26, 2018

EXECUTIVE ORDER NO. 37

PROMULGATION AND IMPLEMENTATION OF THE NORTH CAROLINA EMERGENCY OPERATIONS PLAN

WHEREAS, the North Carolina Emergency Management Act, specifically, N.C. Gen. Stat. § 166A-19.10(b)(7), authorizes the Governor to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the State and local governments in planning for and responding to emergencies; and

WHEREAS, the North Carolina Emergency Management Act, specifically, N.C. Gen. Stat. § 166A-19.10(b)(7), requires the officers and personnel of all such departments, offices, and agencies to cooperate with and extend such services and facilities to the Governor upon request; and

WHEREAS, the functions of the State Emergency Management Program include preparation and maintenance of state plans for disasters; and

WHEREAS, the facilitation of a coordinated, effective relief and recovery effort among state and local government entities and agencies is necessary.

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

Section 1.

All State and local government entities are directed to cooperate in the implementation of the provisions of the North Carolina Emergency Operations Plan ("the Plan").

Section 2.

I hereby delegate to Erik A. Hooks, the Secretary of the North Carolina Department of Public Safety ("the Secretary"), or his designee, all power and authority granted to and required of me by Chapter 166A of the North Carolina General Statutes for the purposes of promulgating and implementing the Plan.

Section 3.

The Secretary shall make necessary changes to the Plan with appropriate coordination and shall similarly promulgate additional annexes and appendices as required.

Section 4.

The Secretary of the North Carolina Department of Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in N.C. Gen. Stat. § 143B-602.

Section 5.

This executive order supersedes Executive Order No. 11, *Promulgation and Implementation of the North Carolina Emergency Operations Plan*, which was issued on May 21, 2013. This order is effective immediately and shall remain in effect until rescinded or superseded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 26th day of January in the year of our Lord two thousand and eighteen.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

February 2, 2018

EXECUTIVE ORDER NO. 38

JUVENILE JUSTICE PLANNING COMMITTEE

WHEREAS, the Executive Organization Act of 1973 established the Governor's Crime Commission; and

WHEREAS, N.C. Gen. Stat. § 143B-1102 establishes the Juvenile Justice Planning Committee as an adjunct committee to advise the Governor's Crime Commission on matters referred to it that are relevant to juvenile justice; and

WHEREAS, pursuant to N.C. Gen. Stat. § 143B-1102, the composition of the Juvenile Justice Planning Committee shall be designated by the Governor through executive order; and

WHEREAS, the federal Juvenile Justice and Delinquency Act of 1974, Pub. L. No. 93-415 (1974), as amended, requires states to establish advisory boards to administer juvenile justice and delinquency prevention grants from the United States Department of Justice ("DOJ"); and

WHEREAS, the Juvenile Justice Planning Committee is ideally suited to serve as such an advisory board consistent with federal law; and

WHEREAS, juvenile justice policies and programs not only improve the health and well-being of juveniles, their families and the broader community, but also improve juveniles' long-term education and employment prospects.

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

SECTION 1. Membership Composition

The Juvenile Justice Planning Committee shall consist of no less than fifteen (15) and no more than twenty (20) members appointed by the Governor. Each member shall have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of justice, or other relevant expertise and experience.

The majority of the members, as well as the chair, shall not be full-time employees of federal, state or local government. At least one-fifth (1/5) of the members shall be under the age of twenty-four (24) at the time of appointment and at least three (3) members shall be under the jurisdiction of the juvenile justice system or have been previously under the jurisdiction of the juvenile justice system.

The Governor shall appoint at least one representative from the following:

1. Elected officials representing general purpose local government.

2. Representatives of local law enforcement and juvenile justice agencies, which may include: a juvenile court or family court judge, a juvenile or local prosecutor, counsel for children, or a probation worker.
3. Representatives of public agencies concerned with delinquency prevention, which may include: a social services agency, a mental health agency, a state education agency, a special education program, a recreation program, or a youth services agency.
4. Private non-profit agencies working with children and families.
5. Volunteers who work with delinquents or children at risk of delinquency.
6. Youth workers in alternative programs.
7. Programs providing alternatives to suspension or expulsion.
8. Persons with special experience relating to learning differences, emotional difficulties, child abuse and neglect, and youth violence.
9. State or local police departments.
10. County sheriffs' departments.
11. Non-profit, victims' advocacy organizations.
12. Non-profit faith-based groups or community groups.

SECTION 2. Terms of Service

Members shall serve for two (2) years provided that the Governor, as set forth in N.C. Gen. Stat. § 143B-1102(d), may remove any member or the chair at any time for misfeasance, malfeasance, or nonfeasance.

SECTION 3. Chair

The chair of the Juvenile Justice Planning Committee shall be designated by the Governor and serve at the Governor's pleasure. Pursuant to federal membership composition requirements, the chair shall not be a full-time employee of federal, state or local government.

SECTION 4. Meetings

The Juvenile Justice Planning Committee shall meet at least quarterly upon the call of the chair or upon written request of one-third (1/3) of its membership. A majority of the committee shall constitute a quorum for the transaction of business.

SECTION 5. Administration of Federal Grants

The Juvenile Justice Planning Committee shall serve as North Carolina's advisory board for purposes of administering juvenile justice and delinquency prevention grants from DOJ.

SECTION 6. Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until January 31, 2022, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 2nd day of February in the year of our Lord two thousand and eighteen.


 Roy Cooper
 Governor

ATTEST:


 Elaine F. Marshall
 Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

February 6, 2018

EXECUTIVE ORDER NO. 39

NOTICE OF TERMINATION OF EXECUTIVE ORDERS NO. 34 AND 35

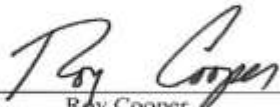
WHEREAS, Executive Order No. 34, *Declaration of a State of Emergency by the Governor of North Carolina*, which was issued on January 16, 2018, declared a state of emergency in the State of North Carolina due to the impacts of a winter storm; and

WHEREAS, Executive Order No. 35, *Temporary Suspension of Motor Vehicle Regulations to Ensure Restoration of Utility Services and the Transportation of Essentials*, which was issued on January 16, 2018, waived the maximum hours of service for drivers transporting supplies and equipment for utility restoration and essentials in commerce, and, with the concurrence of the Council of State, temporarily suspended size and weight restrictions on vehicles used for utility restoration and carrying essentials in commerce on the interstate and intrastate highways due to the impacts of a winter storm.

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

Pursuant to N.C. Gen. Stat. § 166A-19.20(c), Executive Orders No. 34 and 35 are hereby terminated immediately.

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



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



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 Division of Employment Security intends to adopt the rules cited as 04 NCAC 24B .0901; 24C .0213-.0215, .0303; 24D .1101-.1104; 24F .0101-.0107, .0305, .0309, .0311, amend the rules cited as 04 NCAC 24A .0101-.0102, .0104, .0106, .0109, .0201-.0207; 24B .0101, .0103, .0401, .0503, .0902, .1001-.1002; 24C .0102-.0103, .0201-.0203, .0208, .0211, .0302, .0401; 24D .0102, .0105, .0106, .0205, .0401-.0403, .0602, .0801, .0901, .1001, .1002, .1201, .1202; 24F .0201-.0205, .0301-.0303, .0307, and repeal the rule cited as 04 NCAC 24D .0701.

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 rule(s) 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):
<https://des.nc.gov/DES/static?page=DESRules>

Proposed Effective Date: July 1, 2018

Public Hearing:

Date: April 6, 2018

Time: 10:30 a.m.

Location: North Carolina Department of Commerce, Division of Employment Security, Room A-502, 700 Wade Avenue, Raleigh, NC 27605

Reason for Proposed Action: N.C. Session Law 2015-238 made changes to Chapter 96 of the North Carolina General Statutes. Part of the law, codified as N.C. Gen. Stat. 96-40, requires DES to take steps to address unemployment insurance (UI) program integrity, maximize the efficiency for the State's UI program, and prevent, detect, and reduce UI fraud, improper payments, and overpayments. N.C. Session Law 2017-8, House Bill 5, Part IV, Section 4(a) became effective July 1, 2017, and made some changes to the law affecting employer contributions. The proposed repeal of 04 NCAC 24D .0701 is in response to the enactment of N.C. Session Law 2017-8, House Bill 5, Part IV, Section 4(a) that became effective July 1, 2017. This rule is being repealed because the General Assembly eliminated the need for this rule with the revisions to G.S. § 96-11.7 involving continuity of control. Rule 24A .0101 is proposed for amendment to clarify that amendments to 25 NCAC 01E .0901 are incorporated by reference into this Rule. Rule 24A .0102 is proposed for amendment to correct the fax number for employer address changes. Rule 24A .0104 is proposed for amendment to centralize addresses, phone numbers, and requirements for appeals and payments in an effort to reduce the frequency of rule-making and

improve efficiency. Rule 24A .0106 is proposed for amendment to clarify deadlines in circumstances when a due date falls on a weekend or holiday. Rule 24A .0109 is proposed for amendment to eliminate designation of a limited power of attorney and reflect enactment of Ch. 32C of the General Statutes. Rule 24A .0201 is proposed for amendment to correctly reflect the manner in which to request release of confidential UI information. Rules 24A .0202 and .0203 and Rule 24B .0503 are proposed for amendment to correctly reflect the Chief Counsel's position title. Rule 24A .0204 is proposed for amendment to accurately reflect the requirements for requests for release of information. Rules 24A .0205, 24A .0206 and .0207 are proposed for amendment to clarify the fees associated with requests for release of information to third parties. Rules 24B .0101 and 24B .0103 are proposed for amendment to accurately reflect the information required for filing claims and weekly certifications. Rules 24B .0401 and 24C .0103 are proposed for amendment to correct legal citations. Rules 24B .0901 and .0902 are proposed for adoption and amendment, respectively, to notify claimants of the content and manner in which DES will seek offset pursuant to its responsibilities under G.S. § 105A-8 and claimants' right to request a hearing. Rule 24B .1001 is proposed for amendment to clarify the manner in which claimants may make payments to DES under TOP. Rules 24B .1002, 24C .0202, 24D .0105, 24D .0403, 24D .0801, 24D .1001, 24D .1002, 24D .1202 are proposed for amendment to improve the efficiency of the UI program. Rules 24C .0201 and 24C .0213 are proposed for amendment and adoption, respectively, to clarify the manner in which witnesses may participate in appeal hearings and maximize hearing efficiency. Rules 24C .0203, 24D .0106, 24D .0205, and 24F .0201 are proposed for amendment to accurately reflect the information required to file an appeal of an Appeals Decision, and establish consistency with Rule 24A .0104. Rules 24C .0208 and 24C .0211 are proposed for amendment to correct grammatical errors. Rules 24C .0214 and 24C .0215 are proposed for adoption to set forth the requirements for withdrawing an appeal, and to provide notice of the procedures for filing a new appeal of a determination after previously withdrawing an appeal to the same determination. Rules 24C .0302, 24F .0203, and 24F .0204 are proposed for amendment to establish consistency with Rule 24A .0103. Rule 24C .0303 and 24F .0311 are proposed for adoption to establish the requirements for out-of-state attorneys to represent clients in administrative hearings. Rule 24C .0401 is proposed for amendment to clarify the time and manner in which to serve subpoenas. Rule 24D .0102 is proposed for amendment to correctly reflect document names for compliance with SCUBI's document identification system. Rules 24D .0401, 24D .0402, and 24D .0602 are proposed for amendment to improve efficiency and conform to changes made in Session Law 2017-8. Rule 24D .0901 is proposed for amendment to clarify the procedure for special tax investigations. Rule 24D .1101 is proposed for adoption to set

forth the notice requirements of employer referrals to the TOP for outstanding debt. Rule 24D .1102 is proposed for adoption to set forth the notice requirements of employer requests for reevaluation of debt under the TOP. Rules 24D .1103 and 24D .1104 are proposed for adoption to notify employers of the content and manner in which DES will seek offset, their right to appeal, and the appeal hearing procedures when DES seeks debt offset pursuant to its responsibilities under G.S. § 105A-8. Rule 24D .1201 is proposed for amendment to clarify the information required of employers requesting a seasonal determination. Rule 24F .0101 is proposed for adoption to clearly set forth the location and business hours of the Board of Review. Rule 24F .0102 is proposed for adoption to set forth the addresses to be used by the Board of Review when sending notices or correspondence. Rule 24F .0103 is proposed for adoption to set forth the manner in which appeals, requests, and exceptions should be filed with the Board of Review. Rule 24F .0104 is proposed for adoption to set forth the manner in which the Board of Review will determine the filing and mailing dates for appeals, requests, and exceptions. Rule 24F .0105 is proposed for adoption to set forth the manner in which signature s will be determined and authenticated. Rule 24F .0106 is proposed for adoption to set forth the Board of Review's standard for establishing an appeal date. Rule 24F .0107 is proposed for adoption to set forth the standard for timeliness exceptions. Rule 24F .0202 is proposed for amendment to clarify acknowledgment of appeals to the Board of Review. Rule 24F .0205 is proposed for amendment to improve efficiency by outlining the standards and requirements for introducing evidence in hearings before the Board of Review. Rule 24F .0301 is proposed for amendment to clearly identify and provide the manner in which to appeal various tax matters, and to establish consistency with Rule 24A .0104. Rule 24F .0302 is proposed for amendment to accurately reflect the procedural status of a matter being scheduled for a tax hearing. Rule 24F .0303 is proposed for amendment to improve efficiency for appeal hearings before the Board of Review, and provide notice of the manner in which parties may submit witness names and numbers for telephone hearings. Rule 24F .0305 is proposed for adoption to maximize hearing efficiency. Rule 24F .0309 is proposed for adoption to set forth the Board of Review's standards for conducting tax hearings. Rule 24F .0310 is proposed for adoption to codify the existing burden of proof in tax hearings.

Comments may be submitted to: Sheena J. Cobrand, NC Division of Employment Security – Legal Services Section, PO Box 25903, Raleigh, NC 27611-5903; fax (919) 715-7194; email des.rules@nccommerce.com

Comment period ends: April 30, 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 24 - EMPLOYMENT SECURITY

SUBCHAPTER 24A – GENERAL

SECTION .0100 – GENERAL

04 NCAC 24A .0101 OFFICE LOCATION

The administrative ~~offices~~ office of the North Carolina Department of Commerce, Division of Employment Security (hereinafter "DES" or "The Division") ~~are~~ is located at 700 Wade Avenue, in Raleigh, North Carolina. The ~~General Mailing Address~~ general mailing address is Post Office Box 25903, Raleigh, NC 27611-5903. ~~The same work hours shall be observed by the Division as observed by the Office of State Human Resources (OSHR).~~ The office is open to the public during regular business hours, from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for ~~approved~~ State holidays as set forth in ~~25 NCAC 01E .0901.~~ 25 NCAC 01E .0901, and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6.

Authority G.S. 96-4.

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

(a) Each employing unit that has or had individuals in employment as defined in G.S. 96-1 shall notify DES in writing of any change to its mailing address. This notice shall be transmitted by facsimile, via the internet on the DES website, or by postal mail within seven days after the effective date of the change. All notices shall be submitted to the Tax Administration Section, Attn: Address Change by mail to Post Office Box 26504, Raleigh, North Carolina, ~~27611~~, 27611-6504, facsimile to ~~(919) 715-7194~~, (919) 733-1255, or email to des.tax.customerservice@nccommerce.com.

(b) Each claimant with an active ~~claim~~, claim or who is registered for work at a public employment office, shall notify DES in writing of any change in address or electronic mail address within seven days after the effective date of the change. All notices shall be submitted to the DES Customer Call Center, Attn: Address Change, by mail to Post Office Box 25903, Raleigh, NC ~~27611~~, 27611-5903, facsimile to (919) 857-1296, or email to

des.ui.customerservice@ncommerce.com. Claimants may also make and submit address and electronic mail address changes from their home page in the Southeast Consortium Unemployment Benefits Integration (SCUBI) system.

(c) Each claimant who is liable to DES for an overpayment of benefits, shall notify DES by facsimile, via the ~~internet~~ DES website, or by postal mail of any change of address within seven days after the effective date of the change. All notices of overpayment address changes shall be submitted to the Benefits Integrity Unit, Attn: Overpayment Address Change by mail to Post Office Box 25903, Raleigh, NC ~~27611~~, 27611-5903, facsimile ~~to~~, to (919) 733-1369, or email to des.ui.bpc@ncommerce.com.

Authority G.S. 96-4; 96-40; 20 C.F.R. 640.1.

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

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

- (1) The telephone number for DES's Customer Call Center for filing a new initial claim or inquiring about an existing claim is (888) 737-0259.
- (2) ~~Claimants with a social security number ending in an odd number shall file~~ The telephone number for filing weekly certifications on Monday and Wednesday through Saturday by dialing is (888) 372-3453.
- (3) ~~Claimants with a social security number ending in an even number shall file weekly certifications on Tuesday through Saturday by dialing~~ (888) 372-3453.

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

- (1) The mailing address is Post Office Box ~~25903~~, 27967, Raleigh, North Carolina ~~27611~~, 27611-7967.
- (2) The facsimile number is ~~(919) 733-1228~~, (919) 857-1296.
- (3) The email address is des.public.appeals@ncommerce.com.
- (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or issue identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

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

- (1) The mailing address is Post Office Box ~~25903~~, 27967, Raleigh, North Carolina ~~27611~~, 27611-7967.
- (2) The facsimile number is ~~(919) 733-1369~~, (919) 857-1296.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
- (5) Any questions regarding the contents of a Non-Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at ~~(919) 733-1369~~, (919) 857-1296, or email at des.ui.bpc@ncommerce.com.

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

- (1) The mailing address is Post Office Box ~~25903~~, 27967, Raleigh, North Carolina ~~27611~~, 27611-7967.
- (2) The facsimile number is ~~(919) 733-1369~~, (919) 857-1296.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
- (5) Any questions regarding the contents of a Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at ~~(919) 733-1369~~, (919) 857-1296, or email at des.ui.bpc@ncommerce.com.

(e) Appeals of a Monetary Determination denying a protest to a Wage Transcript and Monetary Determination shall be filed with

the Tax Administration Section in SCUBI, by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina ~~27611-6504~~.
 - (2) The facsimile number is (919) 733-1255.
 - (3) The email address is des.tax.customerservice@nccommerce.com.
 - (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
 - (6) Any questions regarding the contents of a determination denying a protest to a Wage Transcript and Monetary Determination shall be directed to the ~~Account and Wage Adjustment~~ Wage Records Unit of the Tax Administration Section by telephone to ~~(919) 707-1462~~, (919) 707-1191, facsimile at (919) 733-1255, or email at des.tax.customerservice@nccommerce.com.
- (f) Protests of a Wage Transcript and Monetary Determination shall be filed with the ~~Claims Unit~~ Tax Administration Section in SCUBI, by ~~mail~~ mail, or facsimile.
- (1) The mailing address is Post Office Box ~~25903, 26504~~, Raleigh, North Carolina ~~27611-6504~~.
 - (2) The facsimile number is ~~(919) 715-3983~~, (919) 733-1255.
 - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Protests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest, the docket or identification number of the determination being protested, the claimant's identification number, the names of the claimant and employer, each reason for the protest, the name of the individual filing the protest, the official position of an individual filing the protest on behalf of the party, and a telephone number.
 - (5) Any questions regarding the contents of a Wage Transcript and Monetary Determination shall be directed to the ~~Monetary Revision~~ Wage Records Unit by telephone to ~~(919) 707-1257~~, (919) 707-1191, facsimile at ~~(919) 715-3983~~, (919) 733-1255, or email at

~~des.monetaryrevision@nccommerce.com~~.

des.tax.customerservice@nccommerce.com.

- (g) Petitions for Waiver of Overpayment shall be filed with the Benefits Integrity Unit in SCUBI, by ~~mail~~ mail, or facsimile.
- (1) The mailing address is Post Office Box ~~25903, 27967~~, Raleigh, North Carolina ~~27611-7967~~.
 - (2) The facsimile number is ~~(919) 733-1369~~, (919) 857-1296.
 - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Petitions shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the petition, docket or identification number of the overpayment determination, the claimant's identification number, the name of the claimant, each reason for the request to waive repayment of the overpayment, the name of the individual filing the petition, the official position of an individual filing the petition on behalf of the party, and a telephone number.
- (h) Claimant appeals of a North Carolina Department of Revenue (NCDOR) Offset Letter shall be filed with the Benefits Integrity Unit in SCUBI, by ~~mail~~ mail, or facsimile.
- (1) The mailing address is Post Office Box ~~25903, 27967~~, Raleigh, North Carolina ~~27611-7967~~.
 - (2) The facsimile number is ~~(919) 733-1369~~, (919) 857-1296.
 - (3) Correspondence regarding a claimant's NCDOR Offset Letter submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the offset letter being appealed, the claimant's identification number, the name of the claimant, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
 - (5) Any questions regarding the contents of a claimant's NCDOR Offset Letter shall be directed to the Benefits Integrity Unit by telephone to ~~(919) 733-1369~~, (919) 857-1296, or email at des.ui.bpc@nccommerce.com.
- (i) Employer appeals of a North Carolina Department of Revenue (NCDOR) Offset Letter for outstanding tax debts shall be filed with the Tax Administration Section by mail or facsimile.
- (1) The mailing address is Post Office Box 26504, Raleigh, NC ~~27611-6504~~.
 - (2) The facsimile number is (919) 733-1255.

- (3) Correspondence regarding an employer's NCDOR Offset Letter submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the offset letter, the name of the employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
 - (5) Any questions regarding the contents of an employer's NCDOR Offset letter for outstanding tax debts shall be directed to the Tax Administration Section by ~~telephone to (919) 707-1119~~, facsimile at (919) 733-1255, or email at des.tax.customerservice@nccommerce.com.
- (j) Claimant Requests for Reevaluation under the Treasury Offset Program (TOP) shall be filed with the Benefits Integrity Unit in SCUBI, of mail by mail, or facsimile.
- (1) The mailing address is Post Office Box ~~25903, 27967~~, Raleigh, North Carolina ~~27611-27967~~.
 - (2) The facsimile number is ~~(919) 733-1369~~. (919) 857-1296.
 - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Requests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or identification number of the TOP notice, the claimant's identification number, the name of the claimant, each reason for the request, the name of the individual filing the request, the official position of an individual filing the request on behalf of the party, and a telephone number.
 - (5) Claimant questions regarding TOP shall be directed to a Recovery Specialist by telephone to (919) 707-1338, or email at des.ui.bpc@nccommerce.com.
- (k) Employer Requests for Reevaluation under the Treasury Offset Program (TOP) shall be filed with the Tax Administration Section by mail or facsimile.
- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina ~~27611-26504~~.
 - (2) The facsimile number is (919) 733-1255.
 - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Requests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or identification number of the TOP notice, the name of the employer, each reason for the request, the name of the individual filing the request, the official position of an individual filing the request on behalf of the party, and a telephone number.
- (5) Employer questions regarding TOP shall be directed to the Tax Administration Section by telephone to ~~(919) 707-1119~~, (919) 707-1150, facsimile at (919) 733-1255, or email at des.tax.customerservice@nccommerce.com.
 - (1) Appeals from an Appeals Decision shall be filed with the Board of Review in SCUBI, by mail, facsimile, or email.
 - (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina ~~27611-28263~~.
 - (2) The facsimile number is (919) 733-0690.
 - (3) The email address is des.ha.appeals@nccommerce.com.
 - (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or issue identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.
- (m) Protests or appeals of adequacy determinations shall be filed with the Claims Unit in SCUBI, by ~~mail~~ mail, or facsimile.
- (1) The mailing address is Post Office ~~Box, 25903, Box 27967~~, Raleigh, North Carolina ~~27611-27967~~.
 - (2) The facsimile number is ~~(919) 733-1126~~. (919) 857-1296.
 - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (4) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the determination being protested or appealed, the name of the employer, each reason for the protest or appeal, the name of the party filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.
- (n) Protests or appeals of a Tax Liability Determination shall be filed with the Tax Administration Section by mail, facsimile, or email.
- (1) The mailing address is Post Office Box 26504, Raleigh, NC ~~27611-26504~~.

- (2) The facsimile number is ~~(919) 733-1255~~, (919) 715-7197.
 - (3) The email address is des.tax.customerservice@nccommerce.com.
 - (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.
- (o) Protests or appeals of a Tax Rate Assignment shall be filed with the Tax Administration Section by mail, facsimile, or email.
- (1) The mailing address is Post Office Box 26504, Raleigh, NC ~~27611~~, 27611-6504.
 - (2) The facsimile number is (919) 733-1255.
 - (3) The email address is des.tax.customerservice@nccommerce.com.
 - (4) Correspondence and protests or ~~appeal~~ appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the rate assignment, the name and address of the employer, the employer's account number, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.
- (p) Protests or appeals of Audit Results shall be filed with the Tax Administration Section by mail, facsimile, or email.
- (1) The mailing address is Post Office Box 26504, Raleigh, NC ~~27611~~, 27611-6504.
 - (2) The facsimile number is (919) 733-1255.
 - (3) The email address is des.tax.customerservice@nccommerce.com.
 - (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the result being protested or appealed, the name of the employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.
- (q) Protests or appeals of Tax Assessments shall be filed with the Tax Administration Section by mail, facsimile, or email.
- (1) The mailing address is Post Office Box 26504, Raleigh, NC ~~27611~~, 27611-6504.
 - (2) The facsimile number is (919) 733-1255.
 - (3) The email address is des.tax.customerservice@nccommerce.com.
 - (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the assessment being protested or appealed, the name of the employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of the individual filing the protest or appeal on behalf of the party, and a telephone number.
- (r) Exceptions to a Tax Opinion shall be filed with the Board of Review by mail, facsimile, or email.
- (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina ~~27611~~, 27611-8263.
 - (2) The facsimile number is (919) 715-7193.
 - (3) The email address is BOR@nccommerce.com.
 - (4) Correspondence and exceptions submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
 - (5) Exceptions shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the exceptions, the docket or identification number of the tax opinion, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the exceptions, each reason for the exceptions, the official position of an individual filing the exceptions on behalf of the party, and a telephone number.
- (s) Requests for non-charging of benefits to an employer's account, and protests or appeals of benefit charges to an employer's account shall be filed with the Claims Unit in SCUBI, by ~~mail~~ mail, or facsimile.
- (1) The mailing address is Post Office Box ~~25903~~, 27967, Raleigh, North Carolina ~~27611-5903~~, 27611-7967.
 - (2) The facsimile number is ~~(919) 733-1126~~, (919) 857-1296.
 - (3) Correspondence, requests, protests, or appeals submitted by email outside the SCUBI system

shall not include social security numbers or employer account numbers.

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

(t) ~~Protests~~ Requests for seasonal determinations and protests or appeals of a Denial of Seasonal Assignment shall be filed with the Tax Administration Section by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, NC ~~27611-6504~~.
- (2) The facsimile number is ~~(919) 733-1255~~. (919) 715-7197.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence and protests or appeal submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the denial being appealed, the name of the employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.

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

- (1) The mailing address is Post Office Box ~~25903~~, 27967, Raleigh, North Carolina ~~27611-7967~~.
- (2) The facsimile number is ~~(919) 733-1370~~. (919) 857-1296.

(v) Requests for oral arguments or to reschedule oral arguments shall be filed with the Board of Review in SCUBI, by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611-8263.
- (2) The facsimile number is (919) 733-0690.
- (3) The email address is des.ha.appeals@nccommerce.com.
- (4) Correspondence and requests for oral arguments submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Requests for oral arguments shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or issue

identification number of the decision being appealed, the claimant's identification number, the names of the claimant and employer, the name and official position of the individual filing the request on behalf of the party, a telephone number, and a statement that a copy of the request was served on the opposing party, if one exists.

(w) Employers may file requests for compromise of tax debts with DES's Tax Administration Section by mail, facsimile, or email.

- (1) The address is Post Office Box 26504, Raleigh, NC 27611-6504.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) The letter shall contain the date of the request, the name of the employer, the name and official position of the individual filing the election on behalf of the employer, and a telephone number.

(x) Employers electing to pay reimbursements for benefits, rather than contributions, shall submit written notice of their election to DES's Tax Administration Section by mail, facsimile, or email.

- (1) The address is Post Office Box 26504, Raleigh, NC 27611-6504.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) The letter shall contain the date of the notice of election, the name and address of the employer, the name and official position of the individual filing the election on behalf of the employer, and a telephone number.

(y) Employers shall make payments to DES by credit card, money order, electronic check, business check with funds drawn from a U.S. financial institution, cashier's check from a U.S. financial institution, automated clearing house (ACH) credit, or cash.

- (1) Payments made by money order, business check, cashier's check, or cash shall be sent by mail or delivery service to DES's Tax Administration Section, Post Office Box 26504, Raleigh, NC 27611-6504, or by delivery to an agent of DES designated to accept payments in accordance with G.S. 96-10.
- (2) Payments by electronic transmission shall be made on DES's website.
- (3) Payments by ACH credit shall be initiated by employers through their U.S. financial institution.

(z) Claimants shall make payments to DES by cashier's check from a U.S. financial institution, by personal check with funds

drawn from a U.S. financial institution, by money order, or by credit card.

- (1) Payments by mail or delivery service shall be sent to the Benefit Payment Control (BPC) Unit, Post Office Box 25903, Raleigh, NC 27611-5903.
- (2) Payments by credit card shall be made on DES's website, or by calling BPC at (919) 707-1338.

Authority G.S. 75-62; 96-4; 96-9.6; 96-9.8; 96-10; 96-10.1; 96-14.1; 96-15; 96-17; 96-18; 96-40; 20 C.F.R. 603.4.

04 NCAC 24A .0106 FILING/MAILING DATES AND USE OF FORMS

(a) Except as otherwise provided in this Chapter, a document or form shall be filed with DES on the date the document or form is received by DES.

(b) When a filing deadline or due date for a form or payment falls on a Saturday, Sunday, or State holiday as set forth in 25 NCAC 01E .0901, the deadline or due date shall be extended to the first business day following the Saturday, Sunday, or State holiday.

~~(b)(c)~~ When determining whether a party had good cause for filing a late appeal or protest, DES shall consider the date mailed in the order listed:

- (1) the postmark date or the postal meter date, where there is only one;
- (2) the postmark date if there is both a postmark date and a postal meter date, if they conflict; or
- (3) the date the document was delivered to a delivery service, which is equivalent to a postmark date of the United States Postal Service.

~~(e)(d)~~ A document received in an envelope bearing no legible postmark, postal meter date, or date of delivery to the delivery service shall be considered to have been sent three business days before receipt by DES, or on the date of the document, if the document date is less than three days earlier than date of receipt.

~~(d)(e)~~ If the envelope is lost after delivery to DES, the date on the document shall control. If the document is undated, DES shall deem the date the writing was sent to be three business days prior to receipt by DES, subject to sworn testimony establishing an earlier date from the sender of the writing.

~~(e)(f)~~ Except as otherwise provided in this Chapter, the date and time that DES receives a document shall be used when the document is sent by facsimile transmission or via the internet.

~~(f)(g)~~ Except as otherwise provided in this Chapter, when a document furnishes information that is sufficient to indicate the purpose or intent of the document, but is not on a form prescribed by DES, the controlling date shall be determined as described in this Section.

Authority G.S. 1A-1, Rule 6; 96-4.

04 NCAC 24A .0109 POWER OF ATTORNEY

(a) An employer may appoint an agent with ~~full or limited power and~~ authority to act on his, her, or its behalf with DES in accordance with ~~G.S. 32A-2(10); G.S. 32C-2-214.~~ An employer's appointment of an agent shall be made in writing in the manner prescribed by ~~G.S. 32A-4, G.S. 32C-3-301,~~ or by using the Power

of Attorney and Declaration of Representative form found on DES's ~~website at www.des.nc.gov.~~ website.

(b) An agent appointed pursuant to a power of attorney may:

- (1) complete and submit documents for filing employers' tax and wage reports;
- (2) complete and submit documents regarding an employer's tax rate, contributions, and direct reimbursements;
- (3) respond to benefit claims documents, including responding to requests for information about a claimant's separation or status;
- (4) engage in discussions with DES representatives regarding the actions listed above; and
- (5) accept or receive correspondence sent by DES regarding claims for benefits or an employer's contributions.

Authority G.S. ~~32A-4; 32A-2; 32C-2-214; 32C-3-301;~~ 96-4; 96-9.15.

SECTION .0200 - REQUESTS FOR DOCUMENTS AND PUBLIC RECORDS UNRELATED TO CONTESTED CLAIM

04 NCAC 24A .0201 WRITTEN REQUEST REQUIRED

Any individual or employing unit requesting to inspect or copy any record containing confidential unemployment insurance information shall make the request in writing. All requests shall be submitted to the Legal Services Section, ATTN: Legal Release by mail to Post Office Box 25903, Raleigh, North Carolina, ~~27611; 27611-5903, or by facsimile to (919) 715-7194, or email to legal.release@nccommerce.com (919) 715-7194.~~

Authority G.S. 96-4; ~~20 CFR 603;~~ 20 CFR 603.5.

04 NCAC 24A .0202 CLEAR DESCRIPTION OF RECORDS REQUIRED

(a) Each written request for unemployment insurance information shall describe the record or records sought and provide sufficient details to permit identification and location of the records.

(b) The request ~~may~~ shall specify:

- (1) the subject matter of the record;
- (2) the date or approximate date that the record was made;
- (3) the place where the record was made;
- (4) the person or office that made the record; and
- (5) any other necessary identifying details about the record, such as an account or form number.

(c) If the description is insufficient for an employee familiar with the subject area of the request to locate the record, the ~~General~~ Chief Counsel or designee shall notify the person making the request and indicate the additional information required to locate the record.

Authority G.S. 96-4; ~~20 CFR 603;~~ 20 CFR 603.5.

04 NCAC 24A .0203 DETERMINATION AS TO DISCLOSURE

(a) If the ~~General~~ Chief Counsel or designee determines that the applicable law does not permit disclosure of the requested information, the ~~General~~ Chief Counsel or designee shall provide written notification to the person making the request. The notice shall state reasons for the denial, including the applicable law prohibiting disclosure.

(b) Where there is specific information in a record that is prohibited from disclosure, the specific information shall be deleted or redacted before providing the requested record.

Authority G.S. 96-4; 20 CFR 603; 20 CFR 603.5.

04 NCAC 24A .0204 RELEASE OF INFORMATION TO THIRD PARTY

(a) Upon written request, a claimant, employer, applicant, or other person who authorizes information or records to be released to a third party or person shall provide:

- (1) the name of the third party or person;
- (2) the address of the third party or person; and
- (3) a statement that the claimant, employer, applicant or other person authorizing the disclosure of information waives confidentiality as to the information directed to be released.

(b) An individual requesting that DES release or disclose to a third party or person the individual's quarterly wage records, including the amount of ~~wages names, wages and names and addresses~~ of each employer reporting wages for the individual shall:

- (1) clearly identify the third party or person by name;
- (2) provide the address of the third party or person;
- (3) contain a statement that the individual waives confidentiality as to the information authorized to be disclosed to the identified third party; and
- (4) state that the authorization and waiver is given on the basis of informed consent as mandated by 20 CFR ~~Part~~ 603.5 and any other applicable federal regulation that may be promulgated by the U.S. Department of ~~Labor; and Labor.~~
- (5) ~~contain a statement that the employing unit that provided the information to DES has been provided proper advance notice of the request for disclosure.~~

Authority G.S. 96-4; 20 CFR 603.5.

04 NCAC 24A .0205 FEES FOR COPIES AND SERVICES

(a) Search Fees:

- (1) The fee for searching DES records by authorized staff shall be four dollars and forty cents (\$4.40) for each one-quarter hour or fraction thereof required to obtain the records to be searched or to search the records.
- (2) If the search for requested records requires transportation of DES staff to the location of the

records, or transportation of the records to DES staff at a cost of more than five dollars (\$5.00), the actual transportation costs shall be added to the search time cost.

- (3) If the search for requested records requires batch processing by computer, the ~~General~~ Chief Counsel or designee shall provide an estimate of DES's cost to produce the information to the individual making the request. The amount of the estimate provided shall be based on the computer programming and other actions necessary for the batch processing. Upon consenting to the estimate provided by the ~~General~~ Chief Counsel or designee, DES shall send an invoice for the actual cost of producing the requested information to the individual making the request.

(b) Reproduction Fees: The fees for obtaining copies of records shall be computed as follows:

- (1) copying: one cent (\$0.01) per page;
- (2) transcription of hearing: three dollars and seventy-five cents (\$3.75) per quarter hour or fraction thereof; and
- (3) recording of hearing: three dollars and seventy-five cents (\$3.75) per compact disk or recording.

(c) No more than 10 copies of any document shall be furnished in response to any request.

(d) Administrative and Overhead Fees: The fee required for the time required for the ~~General~~ Chief Counsel or designee to review a request and determine whether the request is authorized by G.S. 96-4 shall be five dollars and eighty-four cents (\$5.84) for each one-quarter hour or fraction thereof. The overhead cost for processing and invoicing shall be four dollars and fifty cents (\$4.50) per invoice.

(e) Any individual receiving records from DES under this Section shall be charged a minimum fee of fifteen dollars (\$15.00).

Authority G.S. 96-4(x); 20 CFR 603; 96-4; 20 CFR 603.8.

04 NCAC 24A .0206 METHOD OF PAYMENT

(a) Fees shall be paid by ~~cash, money order, or certified check.~~ personal or business check with funds drawn from a U.S. financial institution, or cashier's check from a U.S. financial institution.

(b) An agency of state or federal government, a county, or a municipality may pay fees by draft.

(c) Payments shall be mailed to the North Carolina Department of Commerce, Division of Employment Security, ATTN: Finance and Budget, Post Office Box 25903, Raleigh, North Carolina 27611-27611-5903.

Authority G.S. 96-4(x); G.S. 96-4; 20 CFR 603; 20 CFR 603.8.

04 NCAC 24A .0207 PAYMENT REQUIRED BEFORE INFORMATION RELEASE

(a) Payment shall accompany all requests for release of information. If payment does not accompany a request, or is insufficient to cover all fees, DES shall send an invoice for all fees

due to the individual making the request, due immediately upon receipt.

(b) If the search for requested records exceeds the minimum fee under 04 NCAC 24A .0205, the Chief Counsel or designee shall provide an estimate of DES's cost to produce the information to the individual making the request. Upon consenting to the estimate provided by the Chief Counsel or designee, DES shall send an invoice for the actual cost of producing the requested information to the individual making the request. Payment shall be due immediately, as set forth in Paragraph (a) of this Rule.

~~(b)(c)~~ When exigent circumstances ~~requires~~ require the immediate release of information to local, state, or federal law enforcement officials, DES shall release the information upon receipt of a written assurance demonstrating a guaranty of future payment from the law enforcement official making the request.

Authority G.S. 96-4; ~~20 CFR 603~~; 20 CFR 603.8.

SUBCHAPTER 24B - BENEFITS

SECTION .0100 - CLAIMS FOR UNEMPLOYMENT INSURANCE BENEFITS

04 NCAC 24B .0101 FILING A CLAIM

(a) An individual shall contact DES by internet or telephone to file a valid initial claim for benefits pursuant to ~~04 NCAC 24A .0104~~. 04 NCAC 24A .0104(a).

(b) Prior to receiving any benefits, the claimant shall register for work with a public employment ~~office, unless exempt from this requirement under G.S. 96-14.9 or federal law.~~ office.

~~(c) In the event of a mass layoff by an employer, the employer may request to electronically file an initial claim for benefits for the individuals to be laid off. The request shall be made to DES through its website at www.ncese.com. The employer shall provide DES with a list of the individuals who wish to file an initial claim for benefits. For each individual, the list shall include all information required in Paragraph (d) of this Rule for an initial claim. The list shall be used by DES as an initial claim for each individual on the list. Each individual shall subsequently file his or her weekly certification.~~

~~(d)(c)~~ Information for an initial claim shall include:

- (1) the claimant's name, social security number, address, telephone number, email address, and date of birth, and gender;
- (2) immigration status;
- (3) whether the claimant worked for the federal government or in another state during the previous two years;
- (4) whether the claimant applied for or is receiving disability payments;
- (5) whether the claimant was or will be paid vacation or severance and the time frame that the payment covers;
- (6) whether there was a policy in effect regarding paid time off prior to the claimant's separation;
- ~~(6)(7)~~ whether the claimant refused work since becoming unemployed;

- ~~(7)(8)~~ whether the claimant filed for or is receiving benefits under any other unemployment insurance law;
- ~~(8)(9)~~ whether the claimant applied for or is receiving any type of retirement pension;
- ~~(9)(10)~~ the name and complete address of the claimant's last employer;
- ~~(10)(11)~~ the reason for the claimant's separation from work; and
- ~~(11)(12)~~ the claimant's beginning and ending dates of employment.

Authority G.S. 96-4; 96-14.1; 96-14.9; 96-15; 96-15.01; 20 CFR 602.

04 NCAC 24B .0103 WEEKLY CERTIFICATIONS

(a) After a claimant files an initial claim and establishes a benefit year, the claimant shall file subsequent weekly ~~certification~~ certifications for payment of benefits by telephone, or internet on DES's website at intervals of no less than 7 and no more than 14 consecutive days for each week claimed.

- (1) Each claimant shall file weekly certifications as prescribed under 04 NCAC 24A .0104(a).
- (2) Any claimant who reports earnings that exceed the sum of his or her weekly benefit amount plus earnings allowance for three consecutive weeks shall be unable to file a weekly certification in the fourth week, and must contact DES's Customer Call Center to continue his or her claim as set forth in 04 NCAC 24A .0104(a)(1).
- ~~(2)(3)~~ If at any time during the benefit year, more than 14 calendar days elapse since the claimant last filed a weekly certification, the claimant shall file an additional or reopened claim for benefits as defined in 04 NCAC 24A .0105, and shall comply with all eligibility requirements.

(b) Each claimant shall:

- (1) file claims and weekly certifications in accordance with the rules of this Chapter that includes the following:
 - (A) information required for claims filing outlined in Rule .0101 of this Section.
 - (B) information required for filing weekly certification, including each claimant's full name and social security number;
- (2) inform DES of whether he or she worked during the previous calendar week;
- (3) provide information regarding all earnings before deductions (gross) for work performed during the previous calendar week;
- (4) provide information as to whether he or she received holiday, vacation, bonus, or separation pay, and the gross amount during the previous calendar week;
- (5) provide information as to whether there was a policy in effect regarding paid time off prior to the claimant's separation;

- ~~(5)~~(6) inform DES of whether he or she began receiving or whether there was a change in any type of retirement pension during the previous calendar week;
- ~~(6)~~(7) provide information regarding whether he or she applied for or received any disability payments during the previous calendar week;
- (8) provide information regarding whether he or she applied for or received workers' compensation payments during the previous calendar week;
- (9) inform DES of whether he or she applied for or received unemployment insurance compensation under the law of any state or federal government agency;
- ~~(7)~~(10) inform DES of whether he or she was physically able and available for work, during the previous calendar week;
- ~~(8)~~(11) provide information as to whether he or she looked for work, refused ~~work~~ work, or kept a record of work search during the previous calendar week as required by G.S. 96-14.9(e)(4);
- (12) inform DES of whether he or she attended school or training during the previous calendar week, and if so, whether he or she is willing to quit school or rearrange his or her schedule to accept work;
- ~~(9)~~(13) provide information as to whether he or she has quit a job or been discharged from a job since filing a claim for unemployment benefits;
- ~~(10)~~(14) sign all forms for the valid initial claim or weekly certification that are filed in person, by ~~mail~~ mail, or delivery service; and
- ~~(11)~~(15) submit all claims and weekly certifications as required by the Employment Security Law and this Section.

Authority G.S. 96-4; 96-14.1; 96-14.9; 96-15; 96-15.01.

SECTION .0400 - ADJUDICATION

04 NCAC 24B .0401 DETERMINATIONS DETERMINATION BY ADJUDICATOR

Each adjudicator shall render a written determination resolving any issues related to the claim or protest under G.S. 96-15, which shall include:

- (1) each issue or question involved;
- (2) the docket or issue identification number of the case;
- (3) the resolution of each issue;
- (4) the citation of the provision of law applied to reach the resolution of each issue or question;
- (5) the parties' rights to file an appeal of the determination;
- (6) the statutory time period under ~~G.S. 96-15(b)(1)~~ G.S. 96-15(b)(2) within which an appeal ~~shall~~ may be filed;

- (7) instructions for requesting an in-person hearing;
- (8) information on filing an appeal of the determination ~~by mail, facsimile, or email~~, as set forth in 04 NCAC 24A .0104; 04 NCAC 24A .0104(b); and
- (9) notice that claims filed on or after June 30, 2013 are subject to repayment of overpayments, including those resulting from any decision that is later reversed on appeal.

Authority G.S. 96-4; 96-15; 20 CFR 602.

SECTION .0500 – LABOR DISPUTES

04 NCAC 24B .0503 DETERMINATION OF LABOR DISPUTE AND REFERRAL FOR HEARING

- (a) If an issue of unemployment due to a labor dispute exists, the ~~General~~ Chief Counsel shall refer the matter in writing to DES's Board of Review or designee for hearing.
- (b) Hearings involving the issue of unemployment due to a labor dispute shall be heard upon order of the Board of Review or designee and conducted pursuant to 04 NCAC 24F .0303.

Authority G.S. 96-4; 96-14.7; 96-15.

SECTION .0900 - SETOFF DEBT COLLECTION ACT

04 NCAC 24B .0901 SETOFF DEBT COLLECTION ACT NOTICE TO CLAIMANT

(a) Consistent with G.S. 105A-8, DES shall provide written notice to the debtor within 10 days after receiving the debtor's refund.

(b) The notice shall include:

- (1) the claimant's name;
- (2) the type of debt;
- (3) the amount of the refund received by DES;
- (4) the total amount of the claimant's debt owed to DES;
- (5) the total amount of fees, as applicable;
- (6) the amount of assessed penalties, as applicable;
- (7) a citation to the legal authority that permits collection of the debt through setoff;
- (8) a statement of DES's intention to apply the refund against the debt;
- (9) an explanation that the debt is the basis for the agency's claim to the debtor's refund;
- (10) a statement of the claimant's right to contest the debt by filing a written request for a hearing;
- (11) the time period and procedure for requesting a hearing pursuant to 04 NCAC 24A .0104(h);
- (12) a statement that failure to request a hearing within the required time shall result in setoff of the debt;
- (13) a statement of the claimant's right to request to enter into a written repayment agreement with DES;
- (14) instructions for paying the debt;
- (15) a mailing address where payments shall be sent;

- (16) the date that the notice was mailed to the claimant; and
- (17) a telephone number for the claimant to seek information regarding the notice.

(c) Claimants choosing to repay the debt after receiving notice shall make payment to DES in accordance with 04 NCAC 24A .0104(z).

Authority G.S. 96-4; 105A-8.

04 NCAC 24B .0902 CLAIMANT SETOFF DEBT COLLECTION ACT HEARINGS

(a) A claimant debtor may file an appeal from a notice to claim his or her State income tax refund pursuant to a North Carolina Department of Revenue Offset Letter in accordance with 04 NCAC 24A .0104(h).

(b) Rule 04 NCAC 24A .0106 shall apply in determining timeliness of an appeal.

(c) Hearings pursuant to ~~G.S. 105A-8(B)~~ G.S. 105A-8(b) shall be conducted consistent with the procedures prescribed in 04 NCAC 24C .0209.

Authority G.S. 96-4; ~~105A-8(b)~~; 105A-8.

SECTION .1000 - TREASURY OFFSET PROGRAM

04 NCAC 24B .1001 NOTICE TO CLAIMANT OF REFERRAL TO TOP

(a) Consistent with 31 U.S.C. 3716, DES shall notify each the claimant by mail of its intent to refer the debt to the Treasury Offset Program (TOP) at least 60 days before submitting the debt to TOP.

(b) Each The notice shall include:

- (1) the claimant's name;
- (2) the type of debt;
- (3) the total amount of the referred debt;
- (4) the total amount of the claimant's debt owed to DES;
- ~~(4)(5)~~ the total amount of fees, as applicable;
- ~~(5)(6)~~ the amount of assessed penalties, as applicable;
- ~~(6)(7)~~ a citation to the legal authority that permits collection of the debt through TOP;
- ~~(7)(8)~~ a clear statement of DES's intention to collect the debt through administrative offset;
- ~~(8)(9)~~ a statement that the claimant may request a copy of DES's records that support the debt pursuant to Subchapter 04 NCAC 24A; debt;
- ~~(9)(10)~~ a statement of the claimant's right to request that DES reevaluate the debt;
- ~~(10)(11)~~ the time period in which request and procedure for requesting a reevaluation shall be made; pursuant to 04 NCAC 24A .0104(j);
- (12) a statement that failure to request a reevaluation within the required time shall result in referral of the debt;
- ~~(11)(13)~~ a statement of the claimant's right to request to enter into a written repayment agreement with DES;
- (14) instructions for paying the debt;

- ~~(12)(15)~~ a mailing address to which where payments shall be sent;
- ~~(13)(16)~~ a mailing address and facsimile number to request a reevaluation of the debt;
- ~~(14)(17)~~ a telephone number for the claimant to seek information regarding the notice; and
- ~~(15)(18)~~ the date that the notice was mailed to the claimant; and claimant.
- ~~(16)~~ instructions for paying the debt.

(c) Claimants choosing to repay the debt after receiving notice shall make payment to DES payable to Division of Employment Security and mail to Benefit Payment Control (BPC) Unit, Post Office Box 25903, Raleigh, NC 27611. or remit by credit card on DES's website at www.ncesc.com, or by calling BPC at (919) 707-1338, in accordance with 04 NCAC 24A .0104(z).

Authority G.S. 96-4; 96-18; 31 CFR 285; ~~26 U.S.C. 6402~~; 31 U.S.C. 3716.

04 NCAC 24B .1002 CLAIMANT REEVALUATION OF DEBT

(a) A claimant requesting a reevaluation of their his or her debt shall submit a written request to DES's Benefits Integrity Unit by mail to Post Office Box 25903, Raleigh, NC 27611-5903, or facsimile to (919) 733-1369, pursuant to 04 NCAC 24A .0104(j).

- (1) The written request shall explain why the debt should not be referred to the Treasury Offset Program (TOP) for collection.
- (2) The written request shall be accompanied by documents or other clear and convincing evidence that shows:
 - (A) the identity of the individual to whom the debt is assigned is incorrect; and or
 - (B) the amount of the debt is inaccurate.

(b) The Assistant Secretary or designee shall consider the evidence submitted by the claimant.

(c) The Assistant Secretary or designee shall issue a written decision on the request for reevaluation. The written decision shall be mailed or sent by electronic transmission to the claimant and include the following:

- (1) whether the debt shall be referred to TOP; and
- (2) reasons for the decision.

Authority G.S. 96-4; 96-18; 31 CFR 285; ~~26 U.S.C. 6402~~; 31 U.S.C. 3716.

SUBCHAPTER 24C – INITIAL APPEALS FROM DETERMINATION AND HIGHER AUTHORITY REVIEW

SECTION .0100 – GENERAL INITIAL APPEALS INFORMATION

04 NCAC 24C .0102 EXCEPTION TO TIMELINESS REQUIREMENT EXCEPTION

Timeliness sanctions shall be waived by the Appeals Referee when DES or an agent state representative gives misleading information on appeal rights to a party, if the party:

- (1) establishes what he or she was told was misleading and how he or she was ~~mised;~~ mised pursuant to 04 NCAC 24C .0101;
- (2) identifies, if possible, the individual who misled him or her; and
- (3) no written instructions contrary to the misleading information were provided by DES to the party with service of the decision being appealed.

Authority G.S. 96-4; 96-15.

04 NCAC 24C .0103 BASE PERIOD EMPLOYER DENIED NONCHARGING

A base period employer who was not the claimant's last employer may file an appeal from a determination denying noncharging of benefits to its account as provided in ~~04 NCAC 24D .0200.~~ 04 NCAC 24A .0104(s). The claimant is not a party with appeal rights in this appeal.

Authority G.S. 96-4; 96-11.3; 96-11.4.

SECTION .0200 – INITIAL APPEALS HEARING

04 NCAC 24C .0201 APPEARANCE BY PARTY

An appearance by a party to an appeals hearing includes offering testimony, questioning witnesses, and presenting oral ~~argument.~~ arguments. A submission of written documents or observation of the proceedings shall not constitute an appearance.

- (1) A party or witness shall appear by telephone when the party participates in the telephone conference call with the Appeals Referee on the date and time of the hearing and participates in the proceedings.
- (2) A party or witness shall appear in person at the location on the date and times scheduled for the in-person hearing, and participate in the proceedings.
- (3) An individual shall appear at an in-person/telephone hearing as provided in 04 NCAC 24C .0213 on the date and time of the hearing and participate in the proceedings.

~~Mere submission of written documents or observation of the proceedings does not constitute an appearance.~~

Authority G.S. 96-4; 96-15.

04 NCAC 24C .0202 PRESENTING AND SCHEDULING APPEALED CLAIMS

A party wishing to appeal from an adjudicator's determination shall file an appeal ~~by mail, facsimile, or email~~ pursuant to Rule 04 NCAC 24A .0104(b).

Authority G.S. 96-4; 96-15.

04 NCAC 24C .0203 CONTENTS OF APPEAL TO APPEALS SECTION

A party's written appeal shall contain the following:

- (1) the date of the appeal;

- (2) the ~~identity~~ docket or issue identification number of the determination being appealed;
- (3) ~~a clear statement of the party's intent to appeal; and the claimant's identification number;~~
- (4) ~~the name of the party appealing; the names of the claimant and employer;~~
- (5) each reason for the appeal;
- (6) the name of the individual filing the appeal;
- (7) the official position, if any, of an individual filing the appeal on behalf of the party; and
- (8) a telephone number.

Authority G.S. 96-4; 96-15.

04 NCAC 24C .0208 DISQUALIFICATION OF APPEALS REFEREE

- (a) An Appeals Referee shall be free of any personal interest or bias in the appeal over which he or she is presiding.
- (b) An Appeals Referee shall not participate in hearing an appeal in which that Appeals Referee has a personal interest in the outcome of the appeals decision.
- (c) An Appeals Referee may recuse ~~themselves~~ himself or herself from a hearing to avoid the appearance of impropriety or partiality.
- (d) A pre-hearing challenge to the impartiality of a designated Appeals Referee shall be in writing, addressed to the Chief Appeals Referee, and shall be heard and decided by the Chief Appeals Referee or designee.
- (e) The Chief Appeals Referee or designee's decision on any pre-hearing challenge to the impartiality of an assigned Appeals Referee shall be in writing and mailed to the parties.

Authority G.S. 96-4; 96-15; 20 CFR 650.2.

04 NCAC 24C .0211 CONTROLLED SUBSTANCE RESULTS

In lieu of live testimony from a laboratory representative at a contested claims hearing, an affidavit from an authorized representative of the laboratory may be presented to prove controlled substance examination results, chain of custody, or compliance with all testing or retesting required by federal or state law.

- (1) When a party desires to introduce the affidavit at the hearing, a copy of the affidavit shall be received by the party against whom the affidavit will be offered at least two days before the hearing.
- (2) If the party who desires to introduce the affidavit is unable, despite reasonable efforts, to accomplish the required service within the time specified, the Appeals Referee may adjourn or continue the hearing to allow such service to be accomplished. However, the Appeals Referee shall not continue the hearing if the party against whom the affidavit is offered has refused to accept service or has taken other steps to avoid or delay receipt of the affidavit.
- (3) At the hearing, the party shall offer an authenticated copy of the affidavit as an exhibit.

- (4) If the party against whom the affidavit is offered objects to the entry of the affidavit into the official

record, the objecting party may request an adjournment or continuance of the hearing to subpoena the author of the affidavit. The affidavit's author shall be permitted to testify by telephone at the reconvened hearing.

- (5) Once the affidavit is made a part of the official record of evidence compiled by the Appeals Referee, the Appeals Referee ~~may~~ may, in ~~their~~ his or her discretion, base findings of fact on the affidavit.
- (6) The results of the controlled substance examination and compliance with any applicable statutory or regulatory procedural requirements shall be deemed proven if the claimant admits or stipulates to them during the hearing or by affidavit.

Authority G.S. 95-230; 95-231; 95-232; 95-233; 95-234; 95-235; 96-4; 96-15; 96-235.

04 NCAC 24C .0213 COMBINATION TELEPHONE AND IN-PERSON HEARINGS

(a) The Appeals Referee may conduct an in-person/telephone hearing to avoid prejudice, to ensure security, to comply with standards for appeal promptness, to expedite an appeal, or to efficiently administer the unemployment insurance program.

(b) A party may obtain an in-person/telephone hearing by filing a written objection to a telephone conference call hearing notice pursuant to 04 NCAC 24C .0205, or to an in-person hearing notice pursuant to 04 NCAC 24C .0206.

- (1) The objection shall state each reason that the party objects to appearing in the manner listed in the hearing notice.
- (2) The objecting party shall state the manner in which it, or its witnesses, request to appear for the hearing.
- (3) This request shall be directed to the Appeals Section as provided in 04 NCAC 24A .0104(b), or to the designated Appeals Referee using the contact information provided in the hearing notice.

(c) The Appeals Referee shall consider a party's request to change its witnesses' appearance from a telephone or in-person hearing, and shall make a determination of whether the substantial rights of each party would be preserved by granting the party's request.

(d) The Appeals Referee may grant a request to change an appearance by telephone or in-person for good cause as defined in 04 NCAC 24A .0105. If the request is granted, the official hearing record shall include the written request for the change, reflect the Appeals Referee's determination that the substantial rights of each party would be preserved by granting the request, and each reason for the determination.

(e) The objecting party shall appear in person or by telephone as requested by the objecting party if the Appeals Referee grants the request.

(f) The Appeals Referee may deny a request to change a party's appearance at a hearing to telephone or in-person if:

- (1) the Appeals Referee believes that the requesting party's intent is to inconvenience the opposing party or delay the proceedings;
- (2) the party or witnesses request to appear by telephone, and are less than 40 miles away from an in-person hearing location; or
- (3) the request is made less than 24 hours before the hearing is scheduled to begin.

(g) If a party's request for a change to a telephone or in-person hearing is denied, the Appeals Referee shall state the grounds for denial on the record, include the written request in the official records, and state the reasons for the denial in the written decision.

(h) The Appeals Referee shall notify each party of the change prior to the hearing.

Authority G.S. 96-4; 96-15.

04 NCAC 24C .0214 WITHDRAWAL OF APPEAL

(a) An appealing party may withdraw its appeal with the approval of the Appeals Referee.

(b) An appealing party's request to withdraw its appeal shall be in writing and contain the reason for the request to withdraw the appeal, the date of the request, the docket or issue identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, the name of the individual making the request to withdraw the appeal, the official position of an individual filing the request to withdraw the appeal on behalf of the party, and a telephone number, and shall be directed to DES's Appeals Section or to the Appeals Referee designated to hear the case, or recorded by the Appeals Referee using the digital recording system used to record hearings in accordance with G.S. 96-15(c).

(c) Following receipt of a request to withdraw the appeal, the Appeals Referee shall review each reason for the request.

(d) If a request to withdraw the appeal is approved, the Appeals Referee shall issue an order granting the request to withdraw the appeal. The order shall contain no right to appeal the withdrawal of the appeal.

(e) If a request to withdraw the appeal is denied, the Appeals Referee shall issue an order denying the request to withdraw the appeal, informing the party of the information considered and the reason for the ruling. The order shall contain no right to appeal the denial of the withdrawal of the appeal.

(f) A copy of the party's request to withdraw the appeal and the Appeal Referee's order granting or denying the request shall be included in the official record of the case.

Authority G.S. 96-4; 96-15.

04 NCAC 24C .0215 NEW FILING AFTER WITHDRAWAL OF APPEAL

(a) A party whose request to withdraw the appeal was granted who then files an appeal of the same determination or issue number shall be deemed to have filed the appeal on the date that DES receives the new filing.

(b) The record on appeal for a matter that was closed before a new appeal was received shall include the appealing party's initial request to withdraw the appeal, the withdrawal order, and the new appeal filing.

- (c) DES may raise the issue of the timeliness of the appeal if the appeal is filed after the appeal rights have expired on the determination or issue being appealed.
- (d) Timeliness of the appeal shall be determined in accordance with 04 NCAC 24A .0106.

Authority G.S. 96-4; 96-15.

SECTION .0300 - LEGAL REPRESENTATION FOR INITIAL APPEALS

04 NCAC 24C .0302 ~~NOTICES AND SERVICE TO PARTY~~ NOTICES, SERVICE, AND LEGAL REPRESENTATION OR SUPERVISION BY NORTH CAROLINA ATTORNEY

- (a) Notices or certification of legal representation by an attorney licensed to practice law in this State shall be in writing and presented to the Appeals Referee to become part of the official record, and shall contain:
- (b) Notices or certification of legal representation by an individual who is supervised by an attorney licensed to practice law in this State shall be in writing and presented to the Appeals Referee to become part of the official record, and shall contain:
- (1) the ~~name~~ name, business address, and telephone number of the supervising attorney;
 - (2) ~~the name of the person being supervised;~~
 - (3)(2) the supervising attorney's active North Carolina State Bar number; and
 - (4)(3) ~~the phone and address information of the supervising attorney.~~ the name, address, and telephone number of the person being supervised.

~~(b)(c)~~ (c) When a party has a legal representative, all documents or information required to be provided to the party shall only be provided to the legal representative, unless otherwise instructed on the record during the hearing.

(d) An address provided to an Appeals Referee for mailing or electronic transmission of an Appeals Decision in a specific case does shall not constitute a change of address with DES as set forth in 04 NCAC 24A .0102.

Authority G.S. 84; 96-4; 96-15; 96-17.

04 NCAC 24C .0303 ADMISSION OF OUT-OF-STATE ATTORNEY TO APPEAR BEFORE APPEALS REFEREE

- (a) Pursuant to G.S. 84-4.1, attorneys residing in and licensed to practice law in another state may seek to be admitted to practice before DES to represent a client.
- (b) An out-of-state attorney seeking to practice before DES, or the North Carolina attorney with whom the out-of-state attorney associates pursuant to G.S. 84-4.1(5), shall file a motion with the Chief Appeals Referee that complies with the requirements of G.S. 84-4.1.
- (c) A proposed Order Permitting Out-Of-State Attorney to Appear Pro Hac Vice, found on DES's website, shall be provided to the Chief Appeals Referee with the motion.
- (d) Following review of the motion, the Chief Appeals Referee shall issue an order granting or denying the motion.

(e) Pro hac vice admission granted to practice before an Appeals Referee shall allow continued representation before the Board of Review and all administrative proceedings regarding the same matter. The Chief Appeals Referee has the discretionary authority to deny a motion for pro hac vice admission even if the motion complies with the requirements of G.S. 84-4.1.

(f) Upon receipt of an order granting a motion for pro hac vice admission to practice before an Appeals Referee, the admitted out-of-state attorney or the associated North Carolina attorney shall pay the fees required by G.S. 84-4.1 to the North Carolina State Bar and General Court of Justice, and file a statement with the Chief Appeals Referee documenting payment of the fees and the submission of any pro hac vice admission registration statement required by the North Carolina State Bar. A copy of the motion, order, registration statement, and documentation reflecting payment of the fees shall be provided to the Appeals Referee to be included in the official hearing record.

Authority G.S. 84-4.1; 96-4; 96-17.

SECTION .0400 – SUBPOENAS FOR INITIAL APPEALS

04 NCAC 24C .0401 ISSUANCE OF SUBPOENAS

(a) Subpoenas to compel the attendance of witnesses and the production of records for any appeal hearing may be issued at the direction of the designated Appeals Referee.

- (1) A subpoena may be issued at the request of a party or on motion of the Appeals Referee.
- (2) Any documentation showing service of the subpoena shall become part of the official hearing record.

~~(b)(3)~~ (3) Any request for a subpoena party's request for a subpoena to be issued by the Appeals Referee shall be in writing, sent to the Appeals Referee, and shall include:

- ~~(1)(A)~~ (A) the name of the party requesting the subpoena;
- ~~(2)(B)~~ (B) the claimant's ~~name~~ name, if applicable;
- (3) the employer's name, if applicable;
- ~~(4)(C)~~ (C) the docket or issue identification number of the case;
- ~~(5)(D)~~ (D) the name, address, and telephone number of each person sought for appearance at the hearing;
- ~~(6)(E)~~ (E) the specific identification of any document, recording, or item sought, including a detailed description of where the item is located;
- ~~(7)(F)~~ (F) the name and address of the individual or party in possession of any item sought; and
- ~~(8)(G)~~ (G) a statement of why the testimony or evidence to be subpoenaed is necessary for a proper presentation of the case.

(c)(4) The request shall be granted only to the extent that the items or testimony sought appears relevant to the issues on appeal.

~~(b)(d)~~ (d) Legal representatives may issue subpoenas at their own expense only if prior consent is obtained by from the designated Appeals Referee.

~~(e)(e)~~ (e) Subpoenas shall be issued at least five business days before the date of the scheduled hearing.

(f) Service of a subpoena shall be made by delivering a copy to the person, or by registered or certified mail, return receipt

requested, unless a party or witness consents to service of the subpoena by other means, including electronic transmission.
(g) Any party or person receiving a subpoena may serve a written objection to the issuance of the subpoena.

- (1) The objection shall be directed to the Appeals Referee listed in the hearing notice prior to the commencement of the hearing and provide reasons for the objection and the relief sought by the objecting party.
- (2) The Appeals Referee shall rule on the objection and notify the parties before the hearing. The Appeals Referee's reasons for the ruling shall be in writing or stated on the record during the hearing.

Authority G.S. 96-4; 96-15.

SUBCHAPTER 24D - TAX ADMINISTRATION

SECTION .0100 – REQUESTS FOR NONCHARGING OF BENEFIT PAYMENTS

04 NCAC 24D .0102 NOTICE TO EMPLOYER OF POTENTIAL CHARGES

(a) DES shall notify each employer in writing of potential charges to the employer's account. The notice shall contain the:

- (1) date of the notice;
- (2) claimant's name and social security number;
- (3) date the claimant's benefit year began;
- (4) claimant's weekly benefit amount and weekly earnings allowance;
- (5) employer's reporting number used to report wages for the claimant;
- (6) base period wages reported by the employer by calendar quarter and dollar amount;
- (7) employer's percentage of total base period wages reported;
- (8) maximum potential charge amount that can be applied to the employer's experience rating account if the claimant exhausts his or her benefits;
- (9) a statement containing the employer's right to protest the notice; and
- (10) the time period within which a protest shall be filed pursuant to G.S. 96-15(b)(2).

(b) Notice of potential charges to the employer's account shall be provided using the following forms, as applicable:

- (1) Notice of Combined Wage Claim and Potential Charges to Your ~~Account (Form NCUI 551C);~~ Account;
- (2) Notice of Unemployment Claim, Wages Reported and Potential ~~Charges (Form NCUI 551L);~~ Charges;
- (3) Notice of Initial Claim and Potential Charges to Reimbursable ~~Employer (Form NCUI 551R);~~ Employer;
- (4) Notice of Initial Claim and Potential Charges for Claimants on Temporary ~~Layoff (Form NCUI 551T);~~ Layoff;

- (5) Reversal of Previously Allowed ~~Noncharging (Form NCUI 553A);~~ Noncharging;
- (6) Reversal of Previously Denied ~~Noncharging (Form NCUI 554);~~ Noncharging;
- (7) Administrative Determination Disallowing ~~Noncharging (Form NCUI 570);~~ Noncharging; or
- (8) List of Charges to Your ~~Account (Form NCUI 626);~~ Account.

Authority G.S. 96-4; 96-11.1; 96-11.2; 96-11.3; 96-11.4; 96-15.

04 NCAC 24D .0105 DETERMINATION ON REQUESTS FOR NONCHARGING

DES shall render a determination in writing as to each request for noncharging. The determination shall contain notice of whether the request for noncharging has been granted or denied.

- (1) Where a request for noncharging is granted, the employer's account shall be protected from benefit charges for benefit payments made after the last day that the claimant worked, based on wages reported by the employer before the claimant separated from the employer.
- (2) Where a request for noncharging is denied, the determination shall contain:
 - (a) the reason(s) for denying the request;
 - (b) the mailing date of the determination;
 - (c) the time period within which a protest of the denial must be filed; and
 - (d) instructions for protesting the denial to ~~the Employer Benefit Charges/Benefit Charges Unit by mail to Post Office Box 25903, Raleigh, North Carolina 27611-5903, or facsimile to (919) 733-4426. DES's Claims Unit in accordance with 04 NCAC 24A .0104(s).~~

Authority G.S. 96-4; 96-11.1; 96-11.3; 96-11.4.

04 NCAC 24D .0106 APPEALING DENIAL OF REQUEST FOR NONCHARGING

- (a) The employing unit may file an appeal following an unsuccessful protest of a request for noncharging.
- (b) Employers shall direct all appeals from denials of a request for noncharging to the ~~Appeals Section.~~ DES's Claims Unit in accordance with 04 NCAC 24A .0104(s).
- ~~(c) The provisions of 04 NCAC 24A .0204 Rule 04 NCAC 24A .0106 shall apply in determining timeliness of an appeal.~~
- ~~(e)(d) Hearings on the denial of noncharging shall be conducted pursuant to the provisions of 04 NCAC 24C .0209.~~

Authority G.S. 96-4; 96-11.3; 96-11.4.

SECTION .0200 - ACCOUNT CHARGE PROTESTS

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

The DES's determination on the employer's protest to the list of benefit charges to its account by DES shall contain:

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

Authority G.S. 96-4; 96-11.3; 96-15.

SECTION .0400 - VOLUNTARY ELECTION AND PAYMENTS

04 NCAC 24D .0401 VOLUNTARY ELECTION BY EMPLOYERS

- (a) Any employer electing coverage under G.S. 96-9.8 of the Employment Security Law shall make the election by completing the Employer Status Report (Form NCUI 604), available on DES's ~~website at www.ncese.com~~ website.
- (b) The information provided in the Employer Status Report (Form NCUI 604) shall be provided in the same manner as required under Rule .0602 of this Subchapter.
- (c) Voluntary election shall not be granted if DES determines that potential benefit payments would exceed the taxes received from the employer.
- (d) ~~The effective date of coverage is January 1, or the first day of employment in the year in which the voluntary election is made, whichever is later.~~
- ~~(e)~~ (d) Employers who satisfy the criteria for voluntary election of coverage ~~under this Rule~~, pursuant to G.S. 96-9.8 shall have a contributory unemployment tax account, and shall not have a reimbursable account.

Authority G.S. 96-4; 96-9.6; 96-9.8; 26 U.S.C. 3309; 26 U.S.C. 3306.

04 NCAC 24D .0402 ELECTION TO REIMBURSE IN LIEU OF CONTRIBUTIONS

- ~~(a) An employer electing to pay reimbursements for benefits, rather than contributions who meets the requirements of Rule .0401 of this Section, shall make the election by completing the Employer Status Report (Form NCUI 604) as set forth in Rule .0602 of this Subchapter, and mailing it to DES's Tax Administration at Post Office Box 26504, Raleigh, NC 27611.~~
- ~~(b)~~ (a) A new qualifying employer under G.S. 96-9.6 electing to pay reimbursements for benefits, rather than contributions, shall make the election by writing a letter stating their election to the

~~DES's Tax Administration Section of DES at Post Office Box 26504, Raleigh, NC 27611 as provided in 04 NCAC 24A .0104(x) within 30 days after the employer receives written notification from the Division that it is eligible to make an election as defined under G.S. 96-9.6.~~

(b) A qualifying employer under G.S. 96-9.6 electing to pay reimbursements for benefits, rather than contributions, shall within 30 days before the January 1 effective date, make the election by sending a letter stating their election to DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(x).

Authority G.S. 96-4; 96-9.6; 96-9.8; 26 U.S.C. 3309.

04 NCAC 24D .0403 PAYMENT OF EMPLOYER TAXES

(a) Taxes shall be due and payable to the Division of Employment Security and sent to DES's administrative office in Raleigh, North Carolina, or delivered to an agent of DES designated to accept payments; ~~payments as provided in 04 NCAC 24A .0104(y).~~

~~(b) Tax payments shall be made as follows:~~

- ~~(1) electronic check;~~
- ~~(2) credit card;~~
- ~~(3) Automated Clearing House (ACH) credit;~~
- ~~(4) business check with funds drawn from a U.S. financial institution;~~
- ~~(5) cashier's check from a U.S. financial institution;~~
- ~~or~~
- ~~(6) cash.~~

~~(c) Payments shall be made payable to the Division of Employment Security and sent by U.S. mail or delivery service to DES Tax Administration at Post Office Box 26504, Raleigh North Carolina 27611.~~

~~(d)~~ (b) Timeliness of payments shall be determined pursuant to ~~the~~ 04 NCAC 24A .0106.

Authority G.S. 96-4; 96-9.15.

SECTION .0600 - REPORTS

04 NCAC 24D .0602 STATUS REPORTS

(a) Each employing unit shall complete and file an Employer Status Report (Form NCUI 604) with DES within 10 days of becoming subject to the Employment Security Law. The Employer Status Report ~~shall contain the following:~~ is located on DES's website, and shall include the following:

- ~~(1) the name and address of the business; the employing unit's federal identification number, if any;~~
- ~~(2) names, social security numbers, and addresses of the owners and responsible officers of the business; the employing unit's North Carolina Department of Revenue's withholding identification number, if any;~~
- ~~(3) any records pertaining to contracts for business acquisitions that indicate successorship status; and all previously assigned unemployment insurance tax identification or account numbers;~~

- (4) ~~any information about company officers in continuity of control cases; the employing unit's legal name;~~
 - (5) the employing unit's trade name;
 - (6) the employing unit's mailing address, telephone, and fax numbers;
 - (7) the physical address and county for each of the employing unit's North Carolina locations;
 - (8) if the employing unit has no locations in this State, the primary employee's home address;
 - (9) the principal activity or service performed by the employing unit in North Carolina;
 - (10) the name and address of each of the employing unit's owners;
 - (11) the name, telephone number, and email address of an individual authorized to act on behalf of the employing unit;
 - (12) the type of business ownership;
 - (13) the number of employees expected within 12 months of the date that Form NCUI 604 is submitted to DES;
 - (14) the date the employing unit first hired one or more workers in North Carolina;
 - (15) whether the employing unit in this State is part of a larger organization and is primarily engaged in providing support services to that organization;
 - (16) whether the employing unit is an employment service company as defined in G.S. 96-1(14);
 - (17) for general employers:
 - (A) whether the employing unit has or expects to have a quarterly payroll of one thousand five hundred dollars (\$1,500) or more and if so, the date that this occurred or is expected to occur; and
 - (B) whether the employing unit has or expects to employ at least one worker in 20 different calendar weeks during a calendar year and if so, the date that tis occurred or is expected to occur;
 - (18) for agricultural employers:
 - (A) whether the employing unit has or expects to have a quarterly payroll of twenty thousand dollars (\$20,000) or more, and if so, the date that this occurred or is expected to occur; and
 - (B) whether the employing unit has or will employ 10 or more workers in 20 different weeks during a calendar year, and if so, the date that this occurred or is expected to occur;
 - (19) for domestic employers, whether the employing unit has or will pay one thousand dollars (\$1,000) or more in a calendar quarter for domestic services in a private home, college club, fraternity, or sorority, and if so, the date that this occurred or is expected to occur;
 - (20) for non-profit organizations, whether the employing unit has or will employ 4 or more workers in 20 different weeks during a calendar year, and if so, the date that this occurred or is expected to occur;
 - (21) for employing units of government, whether the entity is local, state, or federal;
 - (22) whether the employing wants to voluntarily cover its workers for unemployment insurance even if it is not subject to the Employment Security Law;
 - (23) whether the employing unit has ever paid taxes pursuant to the Federal Unemployment Tax Act, and if so for which years the taxes were paid;
 - (24) whether the employing unit has acquired, transferred assets, or merged with another business, or made any other change in the ownership of the business, and if so:
 - (A) the former entity's legal name;
 - (B) the former entity's trade name;
 - (C) the former entity's address;
 - (D) the former entity's North Carolina Unemployment Insurance Tax Identification number;
 - (E) the date on which the employing unit acquired the former entity, or changed its business;
 - (F) whether the employing unit acquired all or a portion of the former entity, and if a portion, the percent acquired;
 - (G) whether the former entity was operating when it was acquired by the employing unit, and if not, the date that the former entity closed;
 - (H) whether the former entity was in bankruptcy when it was acquired by the employing unit; and
 - (I) whether the former entity continues to have employees in North Carolina.
 - (25) whether there are workers who perform services for the employing unit, and who the employing unit considers to be self-employed or independent contractors;
 - (26) the name, signature, and official position of the individual filing the NCUI 604 on behalf of the employing unit; and
 - (27) the date that the individual completed Form NCUI 604 and submitted it to DES.
- (b) An employing unit that ceases business, continues operations without employees, transfers, leases, or sells all or any part of the assets of its business, or changes the ~~trade name~~ business name, business entity, business location, telephone number, or mailing address of the business shall give notice to DES within 10 days by completing and filing a status report. Change in Status Report (Form NCUI 101A), which is available on DES's website. ~~The status report shall contain, in addition to the requirements listed under Paragraph (a) of this Rule, the former name and address of the business. Form NCUI 101A shall state:~~

- (1) the employing unit's name;
- (2) the employing unit's mailing address;
- (3) the employing unit's trade name
- (4) the employing unit's North Carolina Unemployment Insurance Tax Identification number;
- (5) whether the employing unit sold or otherwise transferred part or all of the business, and if so:
 - (A) the name, mailing address and telephone number of the entity to which the business was sold or otherwise transferred;
 - (B) the trade name of the entity to which the business was sold or otherwise transferred;
 - (C) whether the entire business operations, including equipment, merchandise, raw materials, and employees were sold, transferred, or leased to a new owner, and if so, the date of the sale, transfer or lease;
- (6) whether a partnership was formed or changed, including the effective date of the formation or change, and an explanation of what occurred;
- (7) whether the business was incorporated, including the effective date of incorporation;
- (8) whether the business ceased all operations in North Carolina, including the date that all operations ceased;
- (9) whether the business is operating without employees, including the last date on which the business had any employees;
- (10) whether the business name changed, and if so, the new name of the business and a copy of the corporate minutes or amended charter on file with the North Carolina Department of the Secretary of State;
- (11) whether there was a change in the address or telephone number, and if so, the changes to the address or telephone number;
- (12) whether there was a change in the employing unit's contact for tax matters, and if so, the new agent's name, address, and telephone number, if applicable; and;
- (13) the name and signature of the individual submitting the Change in Status Report to DES on behalf of the employing unit.

(c) An employing unit that acquires all or any part of the assets of another business shall complete and file an Employer Status Report (Form NCUI 604) within 10 days of the acquisition.

Authority G.S. 96-4; 96-10; 96-11.7.

SECTION .0700 - TRANSFER OF EXPERIENCE RATING TO RELATED ENTITY SUCCESSOR ACCOUNT

04 NCAC 24D .0701 TRANSFER OF EXPERIENCE

Authority G.S. 96-4; 96-10; 96-11.7.

SECTION .0800 - AGREEMENTS TO COMPROMISE

04 NCAC 24D .0801 APPLICATION FOR COMPROMISE

- (a) An employing unit may file a request for compromise of its tax debt with DES.
- (b) A request for compromise shall include the following:
 - (1) the name and address of the employing unit;
 - (2) the date the request to compromise is made;
 - (3) the date the requested compromise is requested to be effective;
 - (4) stated reasons for the request to compromise;
 - (5) evidence to support the claim or reasons for the request;
 - (6) the amount and terms offered by the employer to settle the debt; and
 - (7) the signature of a duly authorized representative of the employer.
- (c) The employer shall provide all information requested by the Department pursuant to Section .0500 of this ~~Section~~ Subchapter for the determination of the compromise.
- (d) The request for compromise shall be filed with DES's Tax Administration Section ~~by mail, facsimile, or email.~~ pursuant to ~~04 NCAC 24A .0104(n).~~ 04 NCAC 24A .0104(w).

Authority G.S. 96-4; 96-10; 96-10.1.

SECTION .0900 - SPECIAL TAX INVESTIGATIONS

04 NCAC 24D .0901 SPECIAL TAX INVESTIGATIONS

- (a) When it is discovered by a representative of DES that a claimant is alleging that he or she was an employee and the employer is alleging that the claimant was not an employee, the matter shall be referred to DES's Assistant Secretary in writing.
- (b) The Assistant Secretary, on behalf of DES, shall refer the matter to the Tax Administration Section for an investigation. Upon receipt of the findings of the investigation, the Assistant Secretary shall issue a Result of Investigation by the Tax Administration Section upon receipt of the findings of the investigation. ~~Section.~~ The Result of Investigation shall be in writing and mailed to each party to the controversy pursuant to 04 NCAC 24A .0103.
- (c) The Result of Investigation shall provide notice of each party's rights for filing an appeal to obtain a hearing before the Board of Review, and the time period within which an appeal shall be filed ~~by mail to the Board of Review, ATTN: Legal Services Section, Post Office Box 25903, Raleigh, 27611-5903.~~ pursuant to 04 NCAC 24A .0104(n).
- (d) Appeal hearings pursuant to this Section shall be upon order of the Board of Review and conducted pursuant to 04 NCAC 24F .0303.

Authority G.S. 96-4; 96-9.2.

SECTION .1000 - REQUESTS AND HEARINGS TO REVIEW AND REDETERMINE TAX RATE

**04 NCAC 24D .1001 REQUEST FOR
REDETERMINATION OF TAX RATE**

(a) An employer may request a review and redetermination of its tax rate after receiving notice of the tax rate.

(b) An employer requesting a review and redetermination of its tax rate shall file its written request with DES's Tax Administration Section ~~by mail to Post Office Box 26504, Raleigh, NC 27611, facsimile to (919) 733-1255, or email to des.tax.customerservice@nccommerce.com~~ as set forth in 04 NCAC 24A .0104(o).

- (1) ~~The request shall include the following:~~
- (A) ~~the name of the employer;~~
 - (B) ~~the address of the employer;~~
 - (C) ~~the account number of the employer;~~
 - (D) ~~a brief statement of the question involved and reasons for the request;~~
 - ~~and~~
 - (E) ~~the name, address, and official position of the individual making the request.~~

(c) The request for a review and redetermination shall be filed ~~on or before~~ prior to May 1 following the effective date of the contribution rate pursuant to G.S. 96-9.2(d).

Authority G.S. 96-4; 96-9.2.

04 NCAC 24D .1002 DIVISION'S OBLIGATIONS

(a) ~~The Division~~ DES shall review the employing unit's request to review and redetermine its tax rate and all available facts, and shall issue a written ruling. The ruling shall be mailed to the employing unit's address as set forth in 04 NCAC 24A .0103 and include the following:

- (1) notify the employing unit of whether its application was granted or denied;
- (2) the applicable legal authority, with specific citations, for the ruling;
- (3) contain the mailing date of the notice;
- (4) a statement containing the employer's right to appeal the notice; and
- (5) the time period within which an appeal shall be filed.

(b) The employing unit may file an appeal of the ruling and request a hearing.

- (1) The appeal shall be filed with DES's Tax Administration Section ~~by mail, facsimile, or email~~ pursuant to ~~Rule~~ 04 NCAC 24A .0104(o).
- (2) Hearings requested pursuant to this Section shall be conducted as set forth in 04 NCAC 24F .0303.

Authority G.S. 96-4; 96-9.2.

**SECTION .1100 –TREASURY OFFSET PROGRAM AND
EMPLOYER SETOFF DEBT COLLECTION**

**04 NCAC 24D .1101 NOTICE TO EMPLOYER OF
REFERRAL TO TOP**

(a) Consistent with 31 U.S.C. 3716, DES shall notify the employer by mail of its intent to refer the debt to the Treasury

Offset Program (TOP) at least 60 days before submitting the debt to TOP.

(b) The notice shall include:

- (1) the employer's name;
- (2) the type of debt;
- (3) the total amount of the referred debt;
- (4) the total amount of the employer's debt owed to DES;
- (5) the total amount of fees, as applicable;
- (6) the amount of assessed penalties, as applicable;
- (7) a citation to the legal authority that permits collection of the debt through TOP;
- (8) a statement of DES's intention to collect the debt through administrative offset;
- (9) a statement that the employer may request a copy of DES's records that support the debt;
- (10) a statement of the employer's right to request that DES reevaluate the debt;
- (11) the time period and procedure for requesting a reevaluation pursuant to 04 NCAC 24A .0104(k);
- (12) a statement that failure to request a reevaluation within the required time shall result in referral of the debt;
- (13) a statement of the employer's right to request to enter into a written repayment agreement with DES;
- (14) instructions for paying the debt;
- (15) a mailing address where payments shall be sent;
- (16) a mailing address and facsimile number to request a reevaluation of the debt;
- (17) a telephone number for the employer to seek information regarding the notice; and
- (18) the date that the notice was mailed to the employer.

(c) Employers choosing to repay the debt after receiving notice shall make payment to DES in accordance with 04 NCAC 24A .0104(y).

Authority G.S. 96-4; 96-9.15; 18; 31 CFR 285; 31 U.S.C. 3716.

**04 NCAC 24D .1102 EMPLOYER REEVALUATION
OF DEBT**

(a) An employer requesting a reevaluation of its debt shall submit a written request to DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(k).

- (1) The written request shall explain why the debt should not be referred to the Treasury Offset Program (TOP) for collection.
- (2) The written request shall be accompanied by documents or other clear and convincing evidence that shows:
 - (A) the identity of the employer to whom the debt is assigned is incorrect; or
 - (B) the amount of the debt is inaccurate.

(b) The Assistant Secretary or designee shall consider the evidence submitted by the employer.

(c) The Assistant Secretary or designee shall issue a written decision on the request for reevaluation. The written decision shall

be mailed or sent by electronic transmission to the employer and include the following:

- (1) whether the debt shall be referred to TOP; and
- (2) reasons for the decision.

Authority G.S. 96-4; 96-18; 31 CFR 285; 31 U.S.C. 3716.

04 NCAC 24D .1103 SETOFF DEBT COLLECTION ACT NOTICE TO EMPLOYER

(a) Consistent with G.S. 105A-8, DES shall provide written notice of receipt to the debtor employer within 10 days after receiving the debtor's refund.

(b) The notice shall include:

- (1) the employer's name;
- (2) the type of debt;
- (3) the amount of the refund received by DES;
- (4) the total amount of the employer's debt owed to DES;
- (5) the total amount of fees, as applicable;
- (6) the amount of assessed penalties, as applicable;
- (7) a citation to the legal authority that permits collection of the debt through setoff;
- (8) a statement of DES's intention to apply the refund against the debt;
- (9) an explanation that the debt is the basis for the agency's claim to the debtor's refund;
- (10) a statement of the employer's right to contest the debt by filing a written request for a hearing;
- (11) the time period and procedure for requesting a hearing pursuant to 04 NCAC 24A .0104(i);
- (12) a statement that failure to request a hearing within the required time shall result in setoff of the debt;
- (13) a statement of the employer's right to enter into a written repayment agreement with DES;
- (14) instructions for paying the debt;
- (15) a mailing address where payments shall be sent;
- (16) the date that the notice was mailed to the employer; and
- (17) a telephone number for the employer to seek information regarding the notice.

(c) Employers choosing to repay the debt after receiving notice shall make payment to DES in accordance with 04 NCAC 24A .0104(y).

Authority G.S. 96-4; 105A-8.

04 NCAC 24D .1104 EMPLOYER SETOFF DEBT COLLECTION ACT HEARINGS

(a) An employer debtor may file an appeal from a notice to claim its State income tax refund pursuant to a North Carolina Department of Revenue Offset Letter in accordance with 04 NCAC 24A .0104(i).

(b) Rule 04 NCAC 24A .0106 shall apply in determining timeliness of an appeal.

(c) Hearings pursuant to G.S. 105A-8(b) shall be conducted consistent with the procedures prescribed in 04 NCAC 24F .0303.

Authority G.S. 96-4; 105A-8.

SECTION .1200 - SEASONAL PURSUITS

04 NCAC 24D .1201 REQUEST FOR SEASONAL DETERMINATION

(a) Each employer desiring a seasonal determination shall request an Application for Seasonal Determination (Form NCUI 611) from assignment of the seasonal period by DES. DES's Tax Administration Section by telephone, mail, facsimile, or email as provided in 04 NCAC 24A .0104(t).

(b) Each employer shall complete and submit The request shall be made in writing by completing the Application for Seasonal Determination (Form NCUI 611) that is available on DES's website at www.ncesc.com and addressed to the Tax Administration Section by mail, facsimile, or email as provided in 04 NCAC 24A .0104. 04 NCAC 24A .0104(t).

(c) Requests for Seasonal Determination using (Form NCUI 611) A request submitted on Form NCUI 611 shall contain the following:

- (1) the employing unit's name and physical address;
- (2) years of operation in North Carolina;
- (3) location of each seasonal pursuit;
- (4) description of each seasonal each pursuit; and
- (5) an explanation of why the seasonal pursuit being requested cannot be conducted throughout the year;
- (5)(6) beginning and ending dates of each seasonal pursuit for the last four years. years;
- (7) the name of the individual requesting the determination;
- (8) the official position of the individual requesting the determination on behalf of the employing unit; and
- (9) a telephone number.

(d) The request completed Application for Seasonal Determination shall be filed at least 20 days before the beginning date of the period of production operations for which the designation determination is requested.

(e) Completion and Submission submission of Form NCUI 611 shall satisfy the requirements of this Rule.

Authority G.S. 96-4; 96-16.

04 NCAC 24D .1202 WRITTEN DETERMINATION

(a) DES shall issue a written determination granting or denying the request upon making its determination pursuant to G.S. 96-16(c). The determination shall notify the employer of the following:

- (1) the specific seasonal period assigned by DES;
- (2) the effective date of the determination; and
- (3) the specific filing requirements for seasonal employers.

(b) Any A determination that denies the request for a seasonal designation shall state the reasons for the denial.

(c) Each The determination shall contain notice of each party's right to appeal the determination and request a hearing, the date the determination was mailed, and the time period within which an appeal shall be filed.

(d) The employer may file its appeal of a denial of a request for seasonal pursuit designation with DES's Tax Administration Section ~~in the same manner as prescribed in under Rule .1201 of this Section, by submitting a Form NCUI 611 by mail to Post Office Box 26504, Raleigh, NC 27611, facsimile to (919) 733-1255, or email to des.tax.customerservice@nccommerce.com~~ 04 NCAC 24A .0104(t).

(e) Hearings shall be conducted as set forth in ~~Rule .1103 of this Subchapter.~~ 04 NCAC 24F .0303.

Authority G.S. 96-4; 96-16.

SUBCHAPTER 24F – BOARD OF REVIEW

SECTION .0100 – GENERAL

04 NCAC 24F .0101 OFFICE LOCATION FOR BOARD OF REVIEW

The administrative office of the North Carolina Department of Commerce, Board of Review is located at 700 Wade Avenue, in Raleigh, North Carolina. The mailing address is Post Office Box 28263, Raleigh, NC 27611. The office is open to the public during regular business hours, from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for State holidays as set forth in 25 NCAC 01E .0901, and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6.

Authority G.S. 96-4; 96-15.3.

04 NCAC 24F .0102 ADDRESSES FOR NOTICE AND ELECTRONIC NOTICE

Rule 04 NCAC 24A .0103 shall apply for notice sent by the Board of Review.

Authority G.S. 96-4; 96-15; 96-15.3.

04 NCAC 24F .0103 ADDRESSES FOR FILING APPEALS, EXCEPTIONS, OR REQUESTS

Appeals, exceptions, and requests shall be filed with the Board of Review in accordance with 04 NCAC 24A .0104(l), (r), and (v).

Authority G.S. 96-4; 96-15; 96-15.3.

04 NCAC 24F .0104 FILING/MAILING DATES AND USE OF FORMS

Rule 04 NCAC 24A .0106 shall apply in determining the timeliness of appeals, exceptions, and requests filed with the Board of Review.

Authority G.S. 96-4; 96-15; 96-15.3.

04 NCAC 24F .0105 SIGNATURES

(a) Rule 04 NCAC 24A .0107 shall apply in authenticating a digital signature.

(b) Rule 04 NCAC 24A .0108 shall apply in determining signatures on reports and forms.

Authority G.S. 96-4; 96-9.15; 96-15; 96-15.3.

04 NCAC 24F .0106 APPEAL DATE

(a) A party shall be allowed to establish an appeal date earlier than a postal meter date, or the date of a document, in the face of clear and convincing evidence.

(b) When a party alleges that it filed an appeal that the Board of Review never received, the party shall present clear and convincing evidence of a timely filing, which may be corroborated by testimony or physical evidence linked to the appeal in question.

(c) The Board of Review shall allow cross-examination in de novo hearings to establish the timeliness of an appeal, as set forth in 04 NCAC 24A .0106.

Authority G.S. 96-4; 96-15; 96-15.3.

04 NCAC 24F .0107 TIMELINESS EXCEPTION

Timeliness sanctions shall be waived by the Board of Review or its designee when the Board of Review, DES, or an agent state representative gives misleading information on appeal rights to a party, if the party:

- (1) establishes what he or she was told was misleading and how he or she was misled pursuant to 04 NCAC 24F .0106;
- (2) identifies, if possible, the individual who misled him or her; and
- (3) no written instructions contrary to the misleading information were provided by the Board of Review or DES to the party with service of the decision being appealed.

Authority G.S. 96-4; 96-15; 96-15.3.

SECTION .0200 – HIGHER AUTHORITY REVIEW OF APPEALS DECISION

04 NCAC 24F .0201 REQUIREMENTS FOR APPEAL STATEMENT TO BOARD OF REVIEW

~~A party shall file a A written statement of appeal from an appeals decision Appeals Decision to the Board of Review. A written statement of appeal from an Appeals Decision to the Board of Review shall include the following: Review shall comply with 04 NCAC 24A .0104(l)(5).~~

- (1) ~~identify the decision being appealed by the docket number;~~
- (2) ~~contain a clear statement of the reasons or grounds for the appeal; and~~
- (3) ~~state the name of the party appealing.~~

Authority G.S. 96-4; 96-15.

04 NCAC 24F .0202 ACKNOWLEDGMENT OF APPEAL

(a) The receipt of a party's appeal from an Appeals Decision shall be acknowledged in writing by the ~~Appeals Section~~ Board of Review or its designee and sent to all parties of record.

(b) The notice acknowledging receipt of an appeal shall inform each party of the following:

- (1) the right to request oral arguments;
- (2) the deadline to request oral arguments;

- (3) the right to submit written arguments regarding the appeal;
 - (4) the deadline for submitting written arguments; and
 - (5) that the party may submit a written request for a record of the hearing proceeding pursuant to G.S. 96-15(f); and
 - (6) the procedures for obtaining a record of the hearing, including recordings or transcripts.
- (c) Records shall be provided in accordance with G.S. 96-4(x) and Section .0200 of 04 NCAC 24A.

Authority G.S. 96-4; 96-15; 20 CFR 603.

04 NCAC 24F .0203 ORAL ARGUMENTS

- (a) Oral arguments before the Board of Review shall be granted at the discretion of the Board of Review.
- (b) A written request for oral arguments ~~shall include the following:~~ shall:
 - (1) be directed to the Board of ~~Review, North Carolina Department of Commerce by mail, facsimile, or email~~ Review pursuant to ~~04 NCAC 24A .0104(i); 04 NCAC 24A .0104(v).~~
 - (2) be received within 15 days of the date on the notice acknowledging receipt of an appeal from ~~an~~ the Appeals Decision; and
 - (3) contain a statement that a copy of the request was mailed or personally delivered to the opposing party, if one exists.
- (c) If the request is granted, the Board of Review shall give written notice to each interested party to appear ~~before the Board of Review.~~ for oral arguments.
- (d) Notice to appear before the Board of Review to present oral arguments shall contain:
 - (1) the Higher Authority Decision docket number;
 - (2) the ~~Lower~~ issue identification or Appeals Decision docket number;
 - (3) the identity of the party requesting oral arguments;
 - (4) the right of the non-requesting party to appear and present oral arguments;
 - (5) the date and time for oral arguments;
 - (6) the physical address of the location where oral arguments are scheduled to be held; and
 - (7) each party's right to legal representation.
- (e) The notice to appear for oral arguments shall be ~~mailed provided~~ provided to each party by mail or electronic transmission at least 14 calendar days before the date scheduled for ~~arguments.~~ arguments in accordance with 04 NCAC 24A .0103.
- (f) Any request to reschedule oral arguments shall be for good cause as defined in 04 NCAC 24A .0105, and sent ~~by mail, fax, or email~~ to the Board of Review pursuant to ~~04 NCAC 24A .0104(i); 04 NCAC 24A .0104(v).~~ and to each party to the proceeding by personal service, mail, fax, electronic transmission, or delivery service as defined under 04 NCAC 24A .0105. A request to reschedule oral arguments shall state ~~the reason(s)~~ each reason for the request.

Authority G.S. 96-4; 96-15.

04 NCAC 24F .0204 LEGAL REPRESENTATION OR SUPERVISION BY NORTH CAROLINA ATTORNEY BEFORE THE BOARD OF REVIEW

- (a) An individual who is a party to a proceeding may represent himself or herself before the Board of Review.
- (b) A partnership or association may be represented by any of its members.
- (c) A corporation may be represented by an officer.
- (d) Any party may be represented by a legal representative as defined in 04 NCAC 24A .0105.
- (e) Notices or certification of legal representation by an attorney supervised licensed to practice law in this State shall be in writing and presented to the Board of Review to become part of the official ~~record and shall contain:~~ record.
- (f) Notices or certification of legal representation by an individual who is supervised by an attorney licensed to practice law in this State shall be in writing and presented to the Board of Review to become part of the official record, and shall contain:
 - (1) the ~~name name, and business address address,~~ and telephone number of the supervising attorney; ~~and~~
 - (2) the supervising attorney's active North Carolina State Bar ~~number. number; and~~
 - (3) the name, address, and telephone number of the person being supervised.

- (g) When a party has a legal representative, all documents or information required to be provided to the party shall be provided only to the legal representative, unless otherwise requested in writing to the Board of Review.
- (h) An address provided to the Board of Review for mailing or electronic transmission in a specific case shall not constitute a change of address with DES for purposes of 04 NCAC 24A .0102.
- (i) Any information provided to a party's legal representative shall have the same force and effect as if it had been sent to the party.

Authority G.S. 96-4; 96-15; 96-17.

04 NCAC 24F .0205 INTRODUCTION OF EVIDENCE IN HIGHER AUTHORITY HEARINGS

- (a) The Board of Review shall allow each party 10 minutes from the time of the scheduled hearing to appear for the hearing.
- (b) If the appealing party fails to appear for the hearing and a continuance had not been previously granted, the Board of Review shall issue a Higher Authority Decision dismissing the appeal.
- (c) A party desiring to introduce documents or other non-testimonial evidence at a de novo hearing shall provide an authenticated copy plus one copy for the Board of ~~Review, or a hearing officer appointed by the Board~~ Review to include in the official record at of the hearing. A copy ~~shall be provided to each party prior to the hearing.~~ Documents of any document or other evidence provided to the Board of Review shall be provided to the opposing party prior to the hearing.
- (d) A party offering 20 or more documents into evidence shall prepare a list of the documents in the order of their presentation. The list shall be provided to the Board of Review and to each party before the hearing to become part of the official hearing record.

(e) If the Board of Review takes official notice of facts, whether under judicial notice or within the Board's specialized knowledge, the official notice and its source shall be stated on the record and noticed to the parties. Each party shall be given an opportunity to dispute the noticed fact by argument and submission of evidence.

Authority G.S. 96-4; 96-15; 96-15.3.

SECTION .0300 – TAX LIABILITY HEARINGS

04 NCAC 24F .0301 APPEALING A TAX MATTER

(a) A written appeal regarding monetary eligibility denying a protest to a Wage Transcript and Monetary Determination shall be filed with DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(e).

~~(a)(b)~~ All appeals A written appeal regarding of a Tax Liability Determination tax matters, or monetary eligibility shall be filed with the DES DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(n).

(c) A written appeal of a Tax Rate Assignment shall be filed with DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(o).

(d) A written appeal of an Audit Result shall be filed with DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(p).

(e) A written appeal of a Tax Assessment shall be filed with DES's Tax Administration Section pursuant to 04 NCAC 24A .0104(q).

(f) Written Exceptions to a Tax Opinion shall be filed with the Board of Review pursuant to 04 NCAC 24A .0104(r).

~~(b) A written appeal under this rule shall contain the following:~~

- ~~(1) the date of the appeal;~~
- ~~(2) the identity of the determination, decision, or result being appealed;~~
- ~~(3) a clear statement of the party's intent to appeal;~~
- ~~(4) reasons for the appeal; and~~
- ~~(5) the name of the party appealing the determination, decision, or result.~~

Authority G.S. 96-4.

04 NCAC 24F .0302 SCHEDULING TAX HEARINGS

(a) A notice of the hearing shall be mailed to each party at least fourteen days before the hearing date.

(b) The hearing notice shall include the following:

- (1) identify the determination, decision, or result being ~~appealed or protested~~; appealed;
- (2) the name of the appealing ~~or protesting~~ party;
- (3) the date and time of the hearing;
- (4) if requested at the time of the filing of the appeal, the physical location of an in-person hearing;
- (5) the telephone number at which each party will be called for a telephone hearing;
- (6) each issue, with statutory reference, to be heard and decided;
- (7) the name and contact information for the Board of Review or designated Hearing ~~Official~~; Officer;

- (8) the manner in which witnesses may offer evidence and participate in the hearing;
- (9) each party's right to obtain a legal representative as defined in 04 NCAC 24A .0105;
- (10) instructions for requesting a rescheduling of the hearing;
- (11) notice that a party may object to a telephone hearing and request an in-person hearing; and
- (12) a statement of each party's right to request the issuance of a subpoena for the production of records or individuals to appear to testify, and instructions for how to do so.

Authority G.S. 96-4.

04 NCAC 24F .0303 TELEPHONE HEARINGS BEFORE THE BOARD OF REVIEW

(a) Hearings shall be conducted by telephone conference call, unless a request is made for an in-person hearing at the time the appeal is filed, or an objection is made pursuant to Rule ~~4104~~ .0304 of this Section.

(b) In cases of telephone hearings, the Board of Review shall provide a Telephone Hearing Questionnaire for each party to submit each telephone number to be called by the Board of Review or its designated Hearing ~~Official~~ Officer for the hearing. ~~If a party fails to submit a telephone number to be called for the hearing, the Board of Review shall call each party at the telephone number listed on the hearing notice.~~

(c) Each party may complete and submit the Telephone Hearing Questionnaire containing each number to be called for the hearing to the Hearing Officer listed in the hearing notice.

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

Authority G.S. 96-4.

04 NCAC 24F .0305 COMBINATION TELEPHONE AND IN-PERSON HEARINGS BEFORE THE BOARD OF REVIEW

(a) The Board of Review or designated Hearing Officer may ~~conduct an in-person/telephone to avoid prejudice, to ensure security, to comply with standards for appeal promptness, to expedite an appeal, or to efficiently administer the unemployment insurance program.~~

(b) A party may obtain an in-person/telephone hearing by filing a written objection to a telephone conference call hearing notice pursuant to 04 NCAC 24F .0303, or to an in-person hearing notice pursuant to 04 NCAC 24F .0304.

- (1) The objection shall state each reason that the party objects to appearing in the manner listed in the hearing notice.

- (2) The objecting party shall state the manner in which it, or its witnesses, request to appear for the hearing.
- (3) This request shall be directed to the Hearing Officer designated in the hearing notice.

(c) The Board of Review or Hearing Officer shall consider a party's request to change its witnesses' appearance from a telephone on in-person hearing, and shall make a determination of whether the substantial rights of each party would be preserved by granting the party's request.

(d) The Board of Review or Hearing Officer may grant a request to change an appearance by telephone or in-person for good cause as defined in 04 NCAC 24A .0105. If the request is granted, the official hearing record shall include the written request for the change, reflect the Board of Review's or Hearing Officer's determination that the substantial rights of each party would be preserved by granting the request, and each reason for the determination.

(e) The objecting party shall appear in-person or by telephone as requested by the objecting party if the Board of Review or Hearing Officer grants the request.

(f) The Board of Review or Hearing Officer may deny a request to change a party's appearance at a telephone or in-person hearing if:

- (1) the Board of Review or Hearing Officer believes that the requesting party's intent is to inconvenience the opposing party or delay the proceedings;
- (2) the party or witnesses request to appear by telephone, and are less than 40 miles away from an in-person hearing location; or
- (3) the request is made less than 24 hours before the hearing is scheduled to begin.

(g) If a party's request for a change to a telephone or in-person hearing is denied, the Board of Review or Hearing Officer shall state the grounds for denial on the record, include the written request in the official records, and state the reasons for the denial in the written decision.

(h) The Board of Review or Hearing Officer shall notify each party of the change prior to the hearing.

Authority G.S. 96-4; 96-15.3.

04 NCAC 24F .0307 SUBPOENAS

(a) Subpoenas to compel the attendance of witnesses and the production of records for any tax hearing may be issued by the Board of Review.

- (1) A subpoena may be issued at the request of a party or on the Board of Review's own motion.
- (2) Any documentation showing service of the subpoena shall become part of the official hearing record.

(b) Any party's request for a subpoena to be issued by the Board of Review shall be in writing, sent to the Board of Review, and shall include:

- (1) the name of the party requesting the subpoena;
- (2) the claimant's name, if applicable;
- (3) the employer's name, if applicable;
- (4) the docket number of the case;

- (5) the name, address, and telephone number of each person sought for appearance at the hearing;
- (6) the specific identification of any document, recording, or item sought, including a detailed description of where the item is located;
- (7) the name and address of the individual or party in possession of any item sought; and
- (8) a statement of why the testimony or evidence to be subpoenaed is necessary for a proper presentation of the case.

(c) The request shall be granted only to the extent that the items or testimony sought appears relevant to the issues on appeal.

(d) Legal representatives shall issue subpoenas at their own expense and discretion.

(e) Subpoenas shall be issued at least five business days before the date of the scheduled hearing.

(f) Service of a subpoena shall be made by delivering a copy to the person, or by registered or certified mail, return receipt requested, unless a party or witness consents to service of the subpoena by other means, including electronic transmission.

(g) Any party or person receiving a subpoena may serve a written objection to the issuance of the subpoena.

- (1) The objection shall be directed to the Board of Review prior to the commencement of the hearing and provide reasons for the objection and the relief sought by the objecting party.
- (2) The Board of Review shall rule on the objection and notify the parties before the hearing. The Board of Review's reasons for its ruling shall be in writing or stated on the record during the hearing.

Authority G.S. 96-4.

04 NCAC 24F .0309 CONDUCT OF TAX HEARINGS BY THE BOARD OF REVIEW

(a) The Board of Review shall allow each party 10 minutes from the time of the scheduled hearing to appear for the hearing.

(b) If the appealing party fails to appear for the hearing and a continuance had not been previously granted, the Board of Review shall issue a Tax Opinion dismissing the appeal.

(c) A party desiring to introduce documents or other non-testimonial evidence at a de novo hearing shall provide an authenticated copy plus one copy for the Board of Review to include in the official record of the hearing. A copy of any document or other evidence provided to the Board of Review shall be provided to the opposing party prior to the hearing.

(d) A party offering 30 or more documents into evidence shall prepare a list of documents in the order of their presentation. The list shall be provided to the Board of Review and to each party before the hearing to become part of the official hearing record.

(e) If the Board of Review takes official notice of facts, whether under judicial notice or within the Board's specialized knowledge, the official notice and its source shall be stated on the record and noticed to the parties. Each party shall be given an opportunity to dispute the noticed fact by argument and submission of evidence.

Authority G.S. 96-4; 96-15.3.

04 NCAC 24F .0310 BURDEN OF PROOF IN HEARINGS BEFORE THE BOARD OF REVIEW

The burden of proof shall rest with the appealing party in any hearing on an appeal set forth in 04 NCAC 24F .0301.

Authority G.S. 96-4; 96-15.3.

04 NCAC 24F .0311 ADMISSION OF OUT-OF-STATE ATTORNEY TO APPEAR BEFORE BOARD OF REVIEW

(a) Pursuant to G.S. 84-4.1, attorneys residing in and licensed to practice law in another state may seek to be admitted to practice before the Board of Review to represent a client. Attorneys admitted pursuant to 04 NCAC 24C .0303 for the same matter are not required to seek admission pursuant to this Rule.

(b) An out-of-state attorney seeking to practice before the Board of Review, or the North Carolina attorney with whom the out-of-state attorney associates pursuant to G.S. 84-4.1(5), shall file a motion with the Board of Review that complies with the requirements of G.S. 84-4.1.

(c) A proposed Order Permitting Out-Of-State Attorney to Appear Pro Hac Vice shall be provided to the Board of Review with the motion.

(d) Following review of the motion, the Board of Review shall issue an order granting or denying the motion.

(e) Pro hac vice admission granted to practice before the Board of Review shall allow continued representation before the Board of Review in all administrative proceedings regarding the same matter. The Board of Review has the discretionary authority to deny a motion for pro hac vice admission even if the motion complies with the requirements of G.S. 84-4.1.

(f) Upon receipt of an order granting a motion for pro hac vice admission to practice before the Board of Review, the admitted out-of-state attorney or the associated North Carolina attorney shall pay the fees required by G.S. 84-4.1 to the North Carolina State Bar and General Court of Justice, and file a statement with the Board of Review documenting payment of the fees and the submission of any pro hac vice admission registration statement, required by the North Carolina State Bar. A copy of the motion, order, registration statement and documentation reflecting payment of the fees shall be provided to the Board of Review to be included in the official hearing record.

Authority G.S. 84-4.1; 96-4; 96-17.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 31 – MARRIAGE AND FAMILY THERAPY LICENSURE BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Marriage and Family Therapy Licensure Board intends to readopt without substantive changes the rules cited as 21 NCAC 31 .0201-.0203, .0301, .0401, .0403, .0404, .0501-.0506, .0609, .0701, .0801, .0802, .1001 and .1002.

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.ncmftb.org

Proposed Effective Date: July 1, 2018

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): You may send your request via one of the following options: mail Wanda Nicholson, Rule-making Coordinator, NC MFT Licensure Board, 201 Shannon Oaks Circle, Suite 200, Cary, NC 27511; fax (919) 336-5156; email ncmftb@nc.rr.com.*

Reason for Proposed Action: *Readoption. In the Existing Rules Review, the Board identified these rules as "necessary with substantive public interest." As a result of the review, the Board is readopting them without substantive changes.*

Comments may be submitted to: Wanda Nicholson, 201 Shannon Oaks Circle, Suite 200, Cary, NC 27511; fax (919) 336-5156; email ncmftb@nc.rr.com

Comment period ends: April 30, 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)

SECTION .0200 - APPLICATION FOR LICENSING

**21 NCAC 31 .0201 CREDENTIALS REQUIRED
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**21 NCAC 31 .0202 REVIEW PROCEDURE
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**21 NCAC 31 .0203 ISSUANCE OF LICENSE
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

SECTION .0300 - EXAMINATION

**21 NCAC 31 .0301 WRITTEN EXAMINATION
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

SECTION .0400 - RENEWAL

**21 NCAC 31 .0401 LICENSURE RENEWAL FORM
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**21 NCAC 31 .0403 REINSTATEMENT AFTER
EXPIRATION (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

**21 NCAC 31 .0404 RETURN FROM INACTIVE
STATUS (READOPTION WITHOUT SUBSTANTIVE
CHANGES)**

SECTION .0500 - DEFINITIONS

**21 NCAC 31 .0501 APPROPRIATE COURSE OF
STUDY (READOPTION WITHOUT SUBSTANTIVE
CHANGES)**

**21 NCAC 31 .0502 ONGOING SUPERVISION
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**21 NCAC 31 .0503 EQUIVALENCY (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

**21 NCAC 31 .0504 ALTERNATIVE TO CLINICAL
PRACTICUM (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

**21 NCAC 31 .0505 NON-DEGREE GRANTING
POST GRADUATE TRAINING PROGRAMS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**21 NCAC 31 .0506 DIRECT CLIENT CONTACT
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

SECTION .0600 - CODE OF ETHICAL PRINCIPLES

**21 NCAC 31 .0609 ETHICAL PRINCIPLES
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

SECTION .0700 - CONTINUING EDUCATION

**21 NCAC 31 .0701 REQUIREMENTS FOR
CONTINUING EDUCATION (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

SECTION .0800 - ASSOCIATE STATUS

**21 NCAC 31 .0801 LICENSED MARRIAGE AND
FAMILY THERAPY ASSOCIATE CREDENTIALS
REQUIRED (READOPTION WITHOUT SUBSTANTIVE
CHANGES)**

**21 NCAC 31 .0802 LICENSED MARRIAGE AND
FAMILY THERAPY ASSOCIATE (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

SECTION .1000 - FEES

**21 NCAC 31 .1001 FEES (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

**21 NCAC 31 .1002 FUND SUSPENSION
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

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CHAPTER 57 – APPRAISAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Appraisal Board intends to amend the rule cited as 21 NCAC 57A .0501.

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

Proposed Effective Date: July 1, 2018

Public Hearing:
Date: April 24, 2018
Time: 9:00 a.m.
Location: 5830 Six Forks Road, Raleigh, NC 27609

Reason for Proposed Action: *The Uniform Standards of Professional Appraisal Practice (USPAP) was amended effective January 1, 2018. This amendment brings the Board rule into conformity with USPAP.*

Comments may be submitted to: *Roberta Ouellette, 5830 Six Forks Road, Raleigh, NC 27609; phone (919) 870-4854; fax (919) 870-4859; email Roberta@ncab.org*

Comment period ends: April 30, 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

**SUBCHAPTER 57A – REGISTRATION, LICENSING,
CERTIFICATION AND PRACTICE**

**SECTION .0500 – STANDARDS OF APPRAISAL
PRACTICE**

21 NCAC 57A .0501 APPRAISAL STANDARDS

(a) Every registered trainee and licensed and certified real estate appraiser shall, in performing the acts and services of a registered trainee or licensed or certified real estate appraiser, comply with the following provisions of the "Uniform Standards of Professional Appraisal Practice" (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation, all of which are incorporated by reference including subsequent amendments and editions:

- (1) Definitions;
- (2) Preamble;
- (3) Ethics Rule;
- (4) Record Keeping Rule;
- (5) Competency Rule;
- (6) Scope of Work Rule;
- (7) Jurisdictional Exception Rule; and
- (8) Standards Rules 1, ~~2 and 3~~, 2, 3, and 4.

(b) A copy of USPAP may be obtained from the Appraisal Foundation at <https://www.appraisalfoundation.org>. The cost for a copy of the Standards ranges from sixty five dollars (\$65.00) to ninety nine dollars (\$99.00), depending upon whether a hard copy or a digital version is purchased.

Authority G.S. 93E-1-10.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on January 25, 2018 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT****COMMERCE, DEPARTMENT OF - CREDIT UNION DIVISION**

<u>Response Of Administrator To Petition</u>	04 NCAC 06B .0402*	32:06 NCR
<u>Definitions</u>	04 NCAC 06C .0101*	32:06 NCR
<u>Incorporation Of State Chartered Credit Unions</u>	04 NCAC 06C .0201*	32:06 NCR
<u>Minimum Potential Membership Guidelines</u>	04 NCAC 06C .0202	32:06 NCR
<u>Fields of Membership</u>	04 NCAC 06C .0203*	32:06 NCR
<u>Out Of State Office Facilities</u>	04 NCAC 06C .0209*	32:06 NCR
<u>General Provisions</u>	04 NCAC 06C .0301*	32:06 NCR
<u>Procedures</u>	04 NCAC 06C .0302*	32:06 NCR
<u>Management Duties</u>	04 NCAC 06C .0304*	32:06 NCR
<u>Display Of Financial Statements</u>	04 NCAC 06C .0306	32:06 NCR
<u>Listing of Officials and Operating Hours</u>	04 NCAC 06C .0307	32:06 NCR
<u>Fidelity and Surety Bonds and Insurance Coverage</u>	04 NCAC 06C .0311*	32:06 NCR
<u>Insurance And Group Purchasing</u>	04 NCAC 06C .0312*	32:06 NCR
<u>Credit Union Service Organization (CUSO)</u>	04 NCAC 06C .0313*	32:06 NCR
<u>Delinquent Loans And Loan Losses</u>	04 NCAC 06C .0401*	32:06 NCR
<u>Charge-Off Of Uncollectible Loans</u>	04 NCAC 06C .0402*	32:06 NCR
<u>Line Of Credit Loans</u>	04 NCAC 06C .0404	32:06 NCR
<u>Commercial Lending and Member Business Loans</u>	04 NCAC 06C .0407*	32:06 NCR
<u>Loan Limitations</u>	04 NCAC 06C .0409*	32:06 NCR
<u>Impairment</u>	04 NCAC 06C .0501*	32:06 NCR
<u>Insolvency</u>	04 NCAC 06C .0502	32:06 NCR
<u>Dividends</u>	04 NCAC 06C .0601*	32:06 NCR
<u>Statements Of Accounts</u>	04 NCAC 06C .0707	32:06 NCR
<u>Financial Statements and Other Information</u>	04 NCAC 06C .0801	32:06 NCR
<u>Credit Union As Custodian</u>	04 NCAC 06C .0901*	32:06 NCR
<u>Permanent Records</u>	04 NCAC 06C .1001*	32:06 NCR
<u>Non-Permanent Records</u>	04 NCAC 06C .1002*	32:06 NCR
<u>Investment Activities</u>	04 NCAC 06C .1201*	32:06 NCR
<u>Federal Funds</u>	04 NCAC 06C .1204	32:06 NCR
<u>Special Reserves for Liquidity</u>	04 NCAC 06C .1301*	32:06 NCR
<u>Other Reserves</u>	04 NCAC 06C .1302	32:06 NCR

NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF

<u>Scope of Rules</u>	07 NCAC 02G .0101	32:08 NCR
<u>Eligibility for State Library Services</u>	07 NCAC 02G .0102	32:08 NCR
<u>Access and Circulation</u>	07 NCAC 02H .0103	32:08 NCR
<u>Reproduction Services</u>	07 NCAC 02H .0104	32:08 NCR
<u>Information, Reference and Research Services</u>	07 NCAC 02H .0105	32:08 NCR
<u>Services for State Agencies</u>	07 NCAC 02H .0106*	32:08 NCR

APPROVED RULES

<u>Eligibility</u>	07 NCAC 02H .0302	32:08 NCR
<u>Application</u>	07 NCAC 02H .0303*	32:08 NCR
<u>Library Collections</u>	07 NCAC 02H .0304	32:08 NCR
<u>Circulation</u>	07 NCAC 02H .0305*	32:08 NCR
<u>Scope of Rules</u>	07 NCAC 02I .0101	32:08 NCR
<u>State Aid Grants</u>	07 NCAC 02I .0202*	32:08 NCR
<u>Regional Agreement</u>	07 NCAC 02I .0302	32:08 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Public Notice</u>	15A NCAC 02D .2203*	31:24 NCR
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WILDLIFE RESOURCES COMMISSION

<u>Wild Turkey</u>	15A NCAC 10B .0209	32:05 NCR
<u>Definitions</u>	15A NCAC 10H .0801*	32:05 NCR
<u>Permit and License Requirements</u>	15A NCAC 10H .0802*	32:05 NCR
<u>Application for License</u>	15A NCAC 10H .0803*	32:05 NCR
<u>Examination</u>	15A NCAC 10H .0804*	32:05 NCR
<u>Duration of License</u>	15A NCAC 10H .0805	32:05 NCR
<u>Acquisition, Sale and Status Change</u>	15A NCAC 10H .0806	32:05 NCR
<u>Levels of Licenses</u>	15A NCAC 10H .0807*	32:05 NCR
<u>Facilities and Equipment</u>	15A NCAC 10H .0808*	32:05 NCR
<u>Banding and Marking</u>	15A NCAC 10H .0809	32:05 NCR
<u>Taking Raptors</u>	15A NCAC 10H .0810*	32:05 NCR
<u>Other Restrictions and Conditions</u>	15A NCAC 10H .0811*	32:05 NCR
<u>Interstate Transportation</u>	15A NCAC 10H .0812	32:05 NCR
<u>Release of Raptors and Moving Raptors to Another License ...</u>	15A NCAC 10H .0814	32:05 NCR
<u>Other Uses and Allowed Activities</u>	15A NCAC 10H .0815*	32:05 NCR
<u>Duty of a Taxidermist</u>	15A NCAC 10H .1002	32:05 NCR
<u>Records</u>	15A NCAC 10H .1003*	32:05 NCR
<u>Purchase and Sale of Wildlife</u>	15A NCAC 10H .1004*	32:05 NCR
<u>Taxidermy Preservation Facility</u>	15A NCAC 10H .1005*	32:05 NCR

WELL CONTRACTORS CERTIFICATION COMMISSION

<u>Requirements of Certification</u>	15A NCAC 27 .0702*	G.S. 150B-21.5(a)(4)
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TRANSPORTATION, DEPARTMENT OF

<u>Designing for Bicycles and Bikeways</u>	19A NCAC 06D .0203	32:06 NCR
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CERTIFIED PUBLIC ACCOUNTANT EXAMINERS, BOARD OF

<u>Filing of Examination Applications and Fees</u>	21 NCAC 08F .0103	32:08 NCR
<u>Application for CPA Certificate</u>	21 NCAC 08F .0502	32:08 NCR

VETERINARY MEDICAL BOARD

<u>Minimum Standards for Continuing Education</u>	21 NCAC 66 .0206*	32:05 NCR
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TITLE 04 - DEPARTMENT OF COMMERCE

**04 NCAC 06B .0402 RESPONSE OF
ADMINISTRATOR TO PETITION**

(a) A written response to the petition for a declaratory ruling, whether in the form of a declaratory ruling or a refusal to issue a declaratory ruling, shall be issued as set forth in G.S. 150B-4.

(b) The Administrator shall issue a declaratory ruling, except when:

- (1) the request for a declaratory ruling does not meet the requirements set forth in this Subchapter;
- (2) the subject matter is one in which the Administrator has no authority to issue a binding decision;
- (3) the question is presented in such a manner that the Administrator cannot determine what the question is, or that the Administrator cannot respond with a specific ruling;
- (4) the petitioner does not qualify as a person aggrieved, as defined in G.S. 150B-2(6);
- (5) the Administrator has previously issued a declaratory ruling, or issued a final agency decision in a contested case, in which the same facts were considered;
- (6) the facts underlying the request for a declaratory ruling were considered at the time the Rule was adopted; or
- (7) the subject matter of the petition is involved in pending litigation.

(c) When the Administrator refuses to issue a declaratory ruling, the Administrator shall notify the petitioner of its decision in writing, stating reasons for the denial of a declaratory ruling.

*History Note: Authority G.S. 54-109.12; 150B-4;
Eff. June 1, 1990;
Readopted Eff. February 1, 2018.*

04 NCAC 06C .0101 DEFINITIONS

When used in this Subchapter, the following words and phrases shall have the following meaning:

- (1) "Administrator" means the Administrator of State-Chartered credit unions.
- (2) "Board of Directors" means at least five persons elected or appointed to oversee the management of each organization.
- (3) "Book value of loans" means the dollar amount of loans the credit union has on its books.
- (4) "Branch Office" means a facility that a credit union maintains and staffs at a location other than its main office to furnish credit union services to its members.
- (5) "Capital" means shares, undivided earnings, and reserves.
- (6) "Commission" means the Credit Union Commission established by G.S. 143B-439.
- (7) "Corporate Credit Union" means a credit union with an institutional field of membership, as set forth in G.S. 54-110.1 and G.S. 54-110.2.

- (8) "Credit union" means a cooperative nonprofit corporation under G.S. 54-109.1.
- (9) "Credit Union Service Organization" or "CUSO" means an organization formed and operated by credit union(s), or associations or organizations of credit unions, to provide financial or operational products or services to credit unions or credit union members.
- (10) "Deposits" means a preferred savings account on which the credit union is obligated to pay a guaranteed interest rate on a continuing basis in such amounts and terms as the Board of Directors approve.
- (11) "Dividend" means an operating expense of a credit union that is declared payable on share accounts from time to time by the Board of Directors. Dividends shall be paid as set forth in G.S. 54-109.54.
- (12) "EDP" means electronic data processing.
- (13) "Funds" means cash on hand or cash in the bank and investments.
- (14) "League" means the Carolinas Credit Union League, the trade association that serves credit unions in North and South Carolina.
- (15) "Members" means persons or organizations who have been accepted for membership by either the Board, membership officer, or an executive committee, after having met qualifications of being within the field of membership.
- (16) "Membership" means a credit union limited to those persons or groups as stipulated in the bylaws of the credit union and set forth in G.S. 54-109.26.
- (17) "Membership fee" means a fee that may be charged to applicants for membership as an entrance fee or as an annual membership fee as determined by the Board of Directors or as the bylaws may provide.
- (18) "Reserve fund" means the portion of income to be entered on the books of the corporation to offset uncollectible loans in accordance with G.S. 54-109.86.
- (19) "Shares" means the primary capital owned by the members and is comprised of the savings of the members. The par value shall be as the bylaws provide.
- (20) Types of investment transactions shall be defined as follows:
 - (a) "Standby commitments" means an agreement to purchase or sell a security at a future date, whereby the buyer is required to accept delivery of the security at the option of the seller.
 - (b) "Cash forward agreement" means an agreement to purchase or sell a security at a future date more than five days after the agreement is made and

- requires mandatory delivery and acceptance.
- (c) "Reverse repurchase agreement" means an agreement whereby a credit union enters into an understanding to sell securities to a purchaser and to repurchase the same securities from that purchaser at a future date, regardless of the amount of consideration paid by the credit union or the purchaser.
- (d) "Repurchase agreement" means an agreement whereby a credit union enters into an agreement to buy securities from a vendor and to resell securities at a future date. Repurchase agreements may be the following two types:
- (i) "Investment-type repurchase agreement" means a repurchase that contains the elements of a sale of security as specified in Rule .1202(5) of this Subchapter.
- (ii) "Loan-type repurchase agreement" means any repurchase that does not qualify as an investment-type repurchase agreement.
- (e) "Future" means a standardized contract for the delivery of commodities, including certain government securities, sold on designated commodities exchange.
- (21) "Unimpaired capital" consists of the shares, undivided surplus, and reserves less any known or probable losses, as determined by management.

History Note: Authority G.S. 54-109.1; 54-109.2; 54-109.12; 54-109.21(25); 54-109.26; 54-109.86; 143B-439; Eff. February 1, 1976;

*Readopted Eff. April 4, 1978;
Amended Eff. July 1, 2013; January 1, 1992; October 1, 1983;
April 1, 1979;
Readoption Eff. February 1, 2018.*

04 NCAC 06C .0201 INCORPORATION OF STATE CHARTERED CREDIT UNIONS

- (a) All credit unions desiring a state charter shall be organized as a corporation under the General Statutes, Articles 14A to 15A of Subchapter III, Chapter 54. In accordance with G.S. 54-109.2(e), the responsibility, character, and general fitness of the officers, directors, and committeemen shall command the confidence of the members and the community, and warrant the belief by the Administrator that the business of the credit union will be properly administered. The Administrator shall determine whether the proposed field of membership is favorable to the success of such credit union and such determination will include an evaluation of any overlap in field of membership with existing credit unions, the field of membership requirements, the number of potential members, availability of payroll deductions, data processing, and evaluation of feasibility studies as conducted by the League, the Credit Union Division, or other support groups for credit union start-ups, and other factors involved in its successful operation.
- (b) The following fees shall be charged when new credit unions are established:

- (1) five dollars (\$5.00) charter fee; and
- (2) twenty dollars (\$20.00)--investigation fee.

*History Note: Authority G.S. 54-109.1; 54-109.2; 54-109.3; 54-109.11(3); 54-109.12; 143B-439;
Eff. February 1, 1976;
Readopted Eff. April 4, 1978;
Amended Eff. October 1, 1983;
Readopted Eff. February 1, 2018.*

04 NCAC 06C .0202 MINIMUM POTENTIAL MEMBERSHIP GUIDELINES

- (a) Based on established policy, standards, and the history of the Credit Union Division chartering credit unions, the Administrator shall determine if the breadth and strength of the proposed field of membership is too broad or too weak to operate as a credit union.

- (b) The minimum potential membership guidelines for chartering credit unions in each of the various types of groups shall be as follows:

TYPE OF GROUPS	MINIMUM POTENTIAL MEMBERSHIP
Occupational or Employer	300 Employees
Associational	500 Members
Residential or Community	1,000 Members
Multiple Occupational or Combination of Groups	500 Members

In addition to the membership, the makeup of the membership group and the level or support shall be a key indicator for the degree of potential success as determined by the Administrator.

Further, determination of the economic advisability of chartering a credit union is based upon such other things as level of group interest, leadership, willingness of management to become

involved in credit union operations, local economic factors, and availability of other credit union service.
A group that is close to the minimum and has exceptional prospects for successful credit union operation shall be considered for a state credit union charter.

History Note: Authority G.S. 54-109.2; 54-109.3(3); 54-109.11(3); 54-109.12; 54-109.21(25); 54-109.26(b); Eff. February 1, 1976; Readopted Eff. April 4, 1978; Amended Eff. October 1, 1983; Readopted Eff. February 1, 2018.

04 NCAC 06C .0203 FIELDS OF MEMBERSHIP

(a) Parity, for the purpose of this Rule, allows the Administrator to approve fields of membership and permit State chartered credit unions the same latitude with regard to membership limitations and restrictions as is available to federally chartered credit unions, as set forth in 12 C.F.R. Part 701.1, and any subsequent amendments are incorporated by reference and may be found at no cost on the Code of Federal Regulations website www.ecfr.gov.

(b) New charters and expansion requests shall be reviewed and approved in conformity with credit unions organized under G.S. 54-109, Articles 14A to 14L.

(c) In allowing an expansion of the field of membership, any credit union shall be bound by membership limitations or restrictions contained in its charter or bylaws as amended and approved by the Administrator, based on applicable rules and statutes.

History Note: Authority G.S. 54-109.1; 54-109.2(e); 54-109.3(3); 54-109.4; 54-109.11(3); 54-109.12; 54-109.21(25); 54-109.22; 54-109.26; 54-109.27; 54-109.28; Eff. February 1, 1976; Amended Eff. March 1, 1977; Readopted Eff. April 4, 1978; Amended Eff. March 1, 2015; November 1, 1990; October 1, 1983; April 1, 1979; Readopted Eff. February 1, 2018.

04 NCAC 06C .0209 OUT OF STATE OFFICE FACILITIES

Before a credit union may open a branch office in another state, a written request shall be submitted to the Administrator of credit unions for his or her approval. The Administrator may request necessary information and conduct an investigation in evaluating the request. It shall be the responsibility of the board of directors of each credit union operating in more than one state to seek the advice of an attorney to ensure that the credit union complies with applicable state laws of the other state(s).

History Note: Authority G.S. 54-109.6(a); 54-109.7; 54-109.11; 54-109.12; 54-109.16; 54-109.21(25); Eff. April 4, 1978; Readopted Eff. February 1, 2018.

04 NCAC 06C .0301 GENERAL PROVISIONS

(a) Internal controls, accounting procedures, and operational standards adequate to safeguard the assets shall be established by all credit unions.

(b) Credit unions with ten million dollars (\$10,000,000) or more in assets shall follow generally accepted accounting principles (GAAP) for financial statement and report preparation. Credit unions with less than ten million dollars (\$10,000,000) in assets may follow GAAP or use the procedures in the "Accounting Manual for Federal Credit Unions," including any subsequent amendments that are incorporated by reference, and may be found at no cost on the National Credit Union Administration website (www.ncua.gov).

(c) At least 60 days before a credit union converts its records from a manual to an Electronic Data Processing (EDP) system through an outside servicer or changes EDP services, a copy of the proposed contract and a description of the data processing system shall be submitted to the Administrator for review and approval. If an in-house EDP system or the sponsoring company's EDP facilities are to be used, the Administrator shall be notified in writing of the proposed change before planning and system programming begins. Contracts and agreements for EDP systems shall conform with the following:

- (1) the right of the Administrator or his or her representative to request and receive from the service center any reports, summaries, or information contained in or derived from the data in the possession of the service center relating to the credit union;
- (2) terms of the contract, including dates for the beginning and end with disclosure of the charges to be incurred;
- (3) notice of the termination of the servicing contract or agreement, consistent with industry standards;
- (4) the description of the equipment, services, reports, location of original documents and source data and method of transmittal of input information to the service center, and applicable controls;
- (5) a maintenance agreement that is consistent with industry standards;
- (6) availability of technically qualified personnel;
- (7) the due diligence and review by the board of directors or legal counsel; and
- (8) fidelity bond coverage for service center personnel and for losses due to system errors and insurance coverage for losses from fire, disaster, or other causes resulting in an interruption of service.

History Note: Authority G.S. 54-109.11; 54-109.12; 54-109.16; 54-109.17(a); 54-109.17(b); Eff. February 1, 1976; Amended Eff. November 1, 1977; Readopted Eff. April 4, 1978; Amended Eff. March 1, 2015; Readopted Eff. February 1, 2018.

04 NCAC 06C .0302 PROCEDURES

The basic internal controls, accounting procedures, and operation standards for all credit unions shall be as follows:

- (1) an adequate general ledger and detailed cash journal shall be maintained for the control of all transactions of the credit union;
- (2) a record of all correcting and adjusting entries, with an explanation of each entry, shall be maintained;
- (3) manual and computerized accounting systems, all receipts and disbursements shall be recorded and posted daily to cash journal and subsidiary accounts;
- (4) deposits in the bank or credit union shall consist of an entire day's receipts as entered in the journal and cash record. If amounts are less than three hundred dollars (\$300.00), more than one day's total receipts may be combined in a single deposit provided that no funds shall be held more than three banking days;
- (5) security shall be provided (cash drawer and lockbox) at a minimum for storage of funds;
- (6) credit union funds shall be kept separate from all other funds;
- (7) cash shall be balanced at the end of each working day, and a record made by each teller detailing coins, currency, checks, and other items counted as cash;
- (8) a "cash over and short" account shall be maintained in the expense ledger, with a record showing the name of each person responsible for each difference;
- (9) a pre-numbered receipt slip or other original record shall be made and preserved covering each payment received;
- (10) all bank or credit union accounts shall be reconciled at least monthly and the reconciliations shall be maintained as set forth in Rule .1002 of this Subchapter;
- (11) a duplicate of itemized bank or credit union deposit slips, or other comparable detailed item record, shall be maintained, as set forth in Rule .1002 of this Subchapter;
- (12) the status of all the credit union's funds, including investments and funds held by agents or attorneys, shall be determinable at all times;
- (13) checks shall be pre-numbered by the printer and not signed in blank in advance of issue. Facsimile signature plates shall be maintained in the credit union vault under dual control;
- (14) disbursements shall be supported by invoices, vouchers, or other explanations of record, each showing the nature or purpose of each disbursement;
- (15) dual control shall be maintained over all negotiable investment securities;
- (16) members' accounts shall be posted and balanced monthly and supported by member

- (17) trial balance or adding machine tapes, identified, dated, and maintained;
- (17) a trial balance of the general ledger shall be prepared within 15 business days from the close of business of the last day of each month and financial statements prepared;
- (18) correction of errors in records shall be visible and approved by an authorized person that shall be approved by the board of directors;
- (19) a signed membership card file covering all accounts shall be maintained;
- (20) payment of dividends or interest on accounts shall be accomplished by check or by credit to the individual account. A record in support of dividend or interest paid by check or credited to accounts shall be maintained;
- (21) a cross-index card record shall be maintained for each comaker showing the date, name, and original amount of each note on which the individual appears as comaker;
- (22) minutes of meetings of the board of directors shall record in detail all of its business transactions and be signed by the presiding officer and the secretary. Upon meeting as a board of directors, the secretary or designated member shall make a matter of record in the minutes of the meeting all written communications from the Division;
- (23) the supervisory committee shall have work papers to support its audit report. The reports and work papers shall be retained and made available for review by the Administrator, as set forth in Rule .1001 of this Subchapter;
- (24) a report of actions taken by the credit committee or loan officers shall be prepared, signed, and maintained, as set forth in Rule .1002 of this Subchapter;
- (25) minutes of each annual meeting of the members of the credit union shall record all business transacted;
- (26) all books and records of the credit union shall have protection from fire and other hazards at all times. Active books and records of the credit union should be located at the principal office at all times;
- (27) dormant accounts shall be controlled to prevent improper withdrawal;
- (28) annual vacations of at least five consecutive working days (during periods when proofs of subsidiary ledgers are being made) shall be taken by each employee having access to cash and the general ledger. During the vacation, the employees shall remain absent;
- (29) a record shall be maintained that shall show the tax and insurance status of each piece of real estate securing the credit union's investment of funds in real estate mortgage loans; and
- (30) all tax liabilities shall be determined and paid in accordance with State and federal laws.

History Note: Authority G.S. 54-109.11(4); 54-109.12; 54-109.16; 54-109.17; 54-109.19; 54-109.92;
Eff. February 1, 1976;
Readopted Eff. April 4, 1978;
Amended Eff. March 1, 2015; January 1, 1992; July 1, 1988;
December 1, 1979;
Readopted Eff. February 1, 2018.

04 NCAC 06C .0304 MANAGEMENT DUTIES

All credit unions shall conduct their business and the selection of their employees using a high degree of management and business skills to assure the safe and sound operation of the credit union. To maintain familiarity with current developments in the field of credit union management, services, and operations as may be necessary, all management personnel and employees of credit unions may avail themselves of the educational opportunities as may be provided by the League, the Credit Union Division, other trade associations, credit union support groups, and other industry training organizations.

History Note: Authority G.S. 54-109.12; 54-109.19; 54-109.35; 54-109.36; 54-109.92;
Eff. February 1, 1976;
Readopted Eff. April 4, 1978;
Amended Eff. October 1, 1983;
Readopted Eff. February 1, 2018.

04 NCAC 06C .0306 DISPLAY OF FINANCIAL STATEMENTS

Each credit union shall display at its main office and all branches, copies of its monthly financial statement. The statement shall be posted in a manner that is accessible for inspection by members.

History Note: Authority G.S. 54-109.12;
Eff. February 1, 1976;
Readopted Eff. April 4, 1978;
Amended Eff. October 1, 1983;
Readopted Eff. February 1, 2018.

\$0 to 100,000
 \$100,001 to \$250,000
 \$250,000 to \$1,000,000
 Over \$1,000,000

04 NCAC 06C .0307 LISTING OF OFFICIALS AND OPERATING HOURS

- (a) Each credit union shall notify the Administrator of the names and addresses of its officers, directors, committee members of the credit committee and supervisory committee, managers, and internal auditors.
- (b) Each credit union shall notify the Administrator of its days and hours of operation.
- (c) The credit union shall notify the Administrator of any changes to the information required by this Rule within 15 business days.

History Note: Authority G.S. 54-109.12; 54-109.36;
Eff. February 1, 1976;
Readopted Eff. April 4, 1978;
Amended Eff. July 1, 2013;
Readopted Eff. February 1, 2018.

04 NCAC 06C .0311 FIDELITY AND SURETY BONDS AND INSURANCE COVERAGE

- (a) The board of directors of a credit union shall purchase a blanket fidelity bond as required by G.S. 54-109.44(2).
- (b) Every credit union shall maintain the minimum bond and insurance coverage as required by G.S. 54-109.11(5).
- (c) No form of surety bond shall be used except as is approved by the Administrator as set forth in G.S. 54-109.11(5). The approved bond forms shall be Credit Union Blanket Bond 500 Bond Series, plus faithful performance rider, Credit Union Blanket Bond, Standard Form No. 23 of the Surety Association of America, or an equivalent approved Bond Form including a faithful performance rider on a current listing, including any subsequent amendments to the bond forms. The approved bond forms are incorporated by reference and may be found at no cost on the Credit Union Division website (www.nccud.org). These bond forms shall be considered the minimum coverages required for the purpose of this Rule. The approved bond forms in this Paragraph provide faithful performance coverage for all employees and officials. Other forms, or changes in the amount of bond coverage, shall be approved by the Administrator as set forth in G.S. 54-109.11(5).
- (d) Maximum deductible limits may be applied to the required coverage contained in 500 Bond Series, and Standard Form No. 23, as specified in this Paragraph:

0
 \$1,000
 2,000
 2,000 plus 1/1000 of total assets up to a maximum of \$200,000

Deductibles in excess of those provided in this Paragraph shall be approved by the Administrator based upon the applicable State rules and laws.

(e) In considering a request to deviate from the bond coverage and deductible amounts set forth in this Rule, the Administrator shall consider the following factors about the credit union:

- (1) financial strength;
- (2) net worth;
- (3) return on assets;
- (4) quality of assets; and

- (5) capital, asset quality, management, earnings, and liquidity, (CAMEL) rating, used by the Credit Union Division and NCUA to evaluate the soundness of credit unions on a uniform basis.

History Note: Authority G.S. 54-109.11(5); 54-109.12; 54-109.44(2);
Eff. April 1, 1981;
Amended Eff. March 1, 2016; July 1, 2013; February 1, 1992;
April 1, 1985;
Readopted Eff. February 1, 2018.

04 NCAC 06C .0312 INSURANCE AND GROUP PURCHASING

Credit unions may purchase, make available, or enter into cooperative marketing arrangements (group purchasing) to facilitate its members' voluntary purchase of insurance and other goods and services that shall be in the interest of improving economic and social conditions of its members. Prior to entering into any agreement for cooperative marketing arrangements to provide goods, services, or insurance to its members, the credit union board of directors shall ensure that the service is researched, is needed and wanted by the members, is communicated in an understandable format, and is monitored and evaluated to ensure that the action will not have an adverse effect on the safety and soundness of the credit union.

History Note: Authority G.S. 54-109.12; 54-109.21; 54-109.75; 54-109.77; 54-109.92(a)(5);
Eff. March 1, 1982;
Readopted Eff. February 1, 2018.

04 NCAC 06C .0313 CREDIT UNION SERVICE ORGANIZATION (CUSO)

(a) For purposes of this Section, a "credit union service organization" (CUSO) is an entity defined in Rule .0101(9) of this Subchapter.

(b) A CUSO may provide the following functions or services:

- (1) credit union operational functions including, credit card and debit card services, ATM services, accounting systems, data processing, management training and support, payment item processing, record retention and storage, locator services, research services, debt collection services, credit analysis and loan servicing, and coin and currency services;
- (2) family financial services including, financial planning, and counseling, including retirement counseling, estate planning and income tax preparation, developing and administering IRA and Keogh plans and other personnel benefit plans, and provision of trust services including acting as trustee or in other similar fiduciary capacities;
- (3) acting as agent for the sale of liability, casualty, automobile, life, health, accident, title, and other insurance;
- (4) personal property leasing and development of leasing plans;
- (5) any preapproved activities or services set forth in 12 C.F.R. Part 712.5, and any subsequent amendments are incorporated by reference and may be found at no cost on the Code of Federal Regulations website www.ecfr.gov; and

- (6) other functions and services, as determined by the board of directors.

(c) A credit union may, either by itself or by agreement with other entities, form, invest in, or lend to a CUSO, within the limits specified by State credit union law. Before investing in or lending to the CUSO, a credit union shall obtain a written agreement from the CUSO that will satisfy the requirements set forth in 12 C.F.R. 712.3 (d), and any subsequent amendments are incorporated by reference and may be found at no cost on the Code of Federal Regulations website www.ecfr.gov.

(d) A credit union investing in or lending to a CUSO shall submit call reports or any other information upon request by the Administrator.

History Note: Authority G.S. 54-109.2(b)(5); 54-109.21(4); 54-109.21(14); 54-109.21(23); 54-109.21(25); 54-109.22; 54-109.27; 54-109.82(2);
Eff. October 1, 1983;
Readopted Eff. February 1, 2018.

04 NCAC 06C .0401 DELINQUENT LOANS AND LOAN LOSSES

(a) Monthly Schedule of Delinquent Loans. Each credit union shall, at the end of each month, prepare and review a schedule of delinquent loans that shall list the account number, name(s) of borrower(s), date of loan, date of last payment, original amount of loan, and outstanding balance of loan at date of schedule, together with space to note current action or status.

(b) The unpaid balance of loans shall be set apart in columns of the schedule of delinquent loans that shall indicate the extent of delinquency as determined by the delinquent installments according to the note contract, as follows:

- (1) loans which the delinquent installments are 60 days but less than 180 days past due;
- (2) loans which the delinquent installments are 180 days but less than 365 days past due; and
- (3) loans which the delinquent installments are past due 365 days or more.

Similar formats customized to a credit union's needs shall be acceptable as long as the report described in this Paragraph may be produced upon request.

(c) Allowance for Loan Losses.

- (1) Each credit union shall establish and maintain the reserves as may be required by State laws and the rules of this Subchapter, or in special cases by the Administrator as set forth in G.S. 54-109.86. Each credit union shall establish an Allowance for Loan Losses Account. The Allowance for Loan Losses Account is not an addition to but a part of the Regular Reserve as required by statute.
- (2) The maintenance of a valuation Allowance for Loan Losses Account shall not eliminate the requirement for transferring a percentage of gross income before the payment of each dividend to the regular reserve as required by State credit union laws and rules of this Subchapter.

- (3) Adjustments to the valuation Allowance for Loan Losses shall be made prior to the distribution or posting of any dividend to the accounts of all the members so that the valuation allowance established presents the value of loans and anticipated losses.
- (4) Adjustments to the valuation Allowance for Loan Losses shall be recorded in the expense account "Provision for Loan Losses."
- (5) Dividends shall not exceed the amount available for that purpose after provisions have been made for the statutory transfer to the Regular Reserve Account and the removal of any deficit in the Regular Reserve Account.
- (6) Each credit union shall review the Allowance for Loan Losses Account quarterly for accuracy prior to completion of the call report. An independent party shall annually review the credit union's Allowance for Loan Losses Account. The independent party shall have no connection to the credit approval, the estimation process, the methodology, and its application.

History Note: Authority G.S. 54-109.11(4); 54-109.12; 54-109.16; 54-109.17; 54-109.86; 54-109.87;
Eff. February 1, 1976;
Readopted Eff. April 4, 1978;
Amended Eff. February 1, 1992; October 1, 1983; January 1, 1983; March 1, 1982;
Readopted February 1, 2018.

04 NCAC 06C .0402 CHARGE-OFF OF UNCOLLECTABLE LOANS

- (a) All credit unions shall have a Charge-Off of Uncollectable Loans Policy. All losses resulting from uncollectable loans shall be charged against the Allowance for Loan Losses or any special reserve as set forth in G.S. 54-109.86(c).
 - (b) A record shall be maintained of all loans charged off. The record shall contain the following information: account number, name, original date, amount of original loan, security, balance at time of charge-off, efforts made to collect, and what, if any, recovery has been made on the security. This record shall be kept current and made available to the examiners at each examination.
 - (c) Any loans delinquent 365 days or more, shall be charged off in accordance with Paragraph (a) of this Rule, unless one of the following applies to the loan:
 - (1) has a high probability of no loss;
 - (2) is secured by real estate where the borrower is demonstrating a reasonable level of repayment; or
 - (3) is in the process of legal action.
- Any loan deemed uncollectable, because collection efforts are nonproductive regardless of the number of days delinquent, shall be charged off in accordance with Paragraph (a) of this Rule.
- (d) Any recovery of charged-off loans shall be credited to the Allowance for Loan Losses.

History Note: Authority G.S. 54-109.11(4); 54-109.12; 54-109.16; 54-109.17;
Eff. February 1, 1976;
Readopted Eff. April 4, 1978;
Amended Eff. February 1, 1992; January 1, 1983;
Readopted Eff. February 1, 2018.

04 NCAC 06C .0404 LINE OF CREDIT LOANS

- (a) A credit union shall not make a line of credit loan that exceeds the stated sum or specified period of time approved by the board of directors of that credit union.
- (b) A credit union shall maintain for a period of one month, beginning on the seventh day of each month, a reserve, that shall consist of cash on hand or legal investments that mature in one year or less, in an amount not less than five percent of the aggregate unused portion of its line of credit loans determined as of the close of the previous month. Not more than 20 percent of the required reserve shall be in direct United States Government obligations. The credit union shall keep current records of the aggregate unused portion of its line of credit loans and reserves, and the Administrator may require periodic or special reports based on these records.

History Note: Authority G.S. 54-109.11(4); 54-109.12; 54-109.15; 54-109.16; 54-109.17; 54-109.70; 54-109.71(b); 54-109.82;
Eff. February 1, 1976;
Readopted Eff. April 4, 1978;
Amended Eff. January 1, 1992; December 1, 1979;
Readopted Eff. February 1, 2018.

04 NCAC 06C .0407 COMMERCIAL LENDING AND MEMBER BUSINESS LOANS

- (a) Commercial lending and member business loans. State chartered federally insured credit unions shall adhere to the federal regulations prescribed by the National Credit Union Administration relating to commercial lending and member business loan program pursuant to 12 C.F.R. Part 723, and this Rule, and any subsequent amendments, are incorporated by reference and may be found at no cost on the Code of Federal Regulations website www.ecfr.gov.
- (b) Written loan policies. The Board of Directors shall give notification to the Administrator of Credit Unions prior to initiating a commercial lending and member business loan program and adopt specific commercial lending and member business loan policies and review them at least annually. The Board of Directors shall review its commercial lending and member business loan policies prior to any material change in the credit union's commercial lending and member business loan program or related organizational structure, and in response to any material change in portfolio performance or change in economic conditions. Credit unions with an asset size of two hundred fifty million dollars (\$250,000,000) or below shall have commercial lending and member business loan policies submitted to the Administrator of Credit Unions 30 days prior to initiating a commercial lending and member business loan program.

History Note: Authority G.S. 54-109.12; 54-109.21(25); 54-109.78; 12 C.F.R. Part 741.3; 12 C.F.R. Part 723; 12 C.F.R. Part 741.203;

Eff. January 1, 1988;

Amended Eff. August 1, 1998; March 2, 1992;

Temporary Amendment Eff. January 1, 2017;

Amended Eff. August 1, 2017;

Readopted Eff. February 1, 2018.

04 NCAC 06C .0409 LOAN LIMITATIONS

(a) No loan or line of credit advance shall be made to an individual member, or immediate family member, if such a loan or line of credit advance causes that member along with that member's immediate family to be indebted to the credit union in an aggregate amount exceeding 10 percent of the credit union's unimpaired shares and surplus as set forth in G.S. 54-109.67. For purposes of this Rule "unimpaired shares" shall mean shares without any assignments or pledges. "Surplus" shall mean undivided earnings and reserves.

(b) In the case of member business loans, additional loan limitations apply as set forth in Rule .0205(d) of this Subchapter and pursuant to 12 C.F.R. Part 723.

History Note: Authority G.S. 54-109.12; 54-109.26; 54-109.67;

Eff. August 1, 1998;

Readopted Eff. February 1, 2018.

04 NCAC 06C .0501 IMPAIRMENT

(a) An impairment of capital shall exist if the credit union is unable to provide for Allowance for Loan Losses, or any other reserve required by the Administrator.

(b) In determining the degree of impairment of capital that may exist, loans receivable shall be valued at book value less the amount of reserves required. If share deposit balances exceed net assets an impairment shall exist. The total of the credit union's assets, valued according to generally accepted accounting principles, including loans receivable, less current and long term liabilities, shall be considered to be net assets.

(c) Whenever it is determined that there exists an impairment of capital, the board of directors shall notify the Administrator. If required by the Administrator, pursuant to G.S. 54, Article 14A to 14N, the board of directors shall disclose to all shareholders the impairment of capital and other matters regarding the financial condition of the credit union.

History Note: Authority G.S. 54-109.12; 54-109.92; 54-109.93;

Eff. February 1, 1976;

Readopted Eff. April 4, 1978;

Amended Eff. January 1, 1983;

Readopted Eff. February 1, 2018.

04 NCAC 06C .0502 INSOLVENCY

Inability to meet demands of shareholders or creditors shall constitute insolvency.

History Note: Authority G.S. 54-109.12; 54-109.92;

Eff. February 1, 1976;

Readopted Eff. April 4, 1978;

Readopted Eff. February 1, 2018.

04 NCAC 06C .0601 DIVIDENDS

(a) The board of directors may declare dividends pursuant to G.S. 54-109.44 (5) and G.S. 54-109.54.

(b) No dividend shall be declared or paid unless the credit union has satisfied the reserve requirements set forth in G.S. 54-109.86 and any other reserve account that shall be maintained as prescribed by the Administrator.

History Note: Authority G.S. 54-109.12; 54-109.44(5); 54-109.54; 54-109.86; 54-109.87;

Eff. February 1, 1976;

Readopted Eff. April 4, 1978;

Amended Eff. October 1, 1983;

Readopted Eff. February 1, 2018.

04 NCAC 06C .0707 STATEMENTS OF ACCOUNTS

History Note: Authority G.S. 54-109.12;

Eff. February 1, 1976;

Readopted Eff. April 4, 1978;

Repealed Eff. February 1, 2018.

04 NCAC 06C .0801 FINANCIAL STATEMENTS AND OTHER INFORMATION

Each credit union shall furnish a report of condition to the Administrator due on the same date as designated by the federal insurer in January, April, July, and October. The report shall be submitted on forms supplied by the federal insurer for that purpose. The Administrator shall assess fines and penalties for reports not filed within 15 days, as set forth in G.S. 54-109.13 and G.S. 54-109.15(b).

History Note: Authority G.S. 54-109.11(4); 54-109.12; 54-109.13; 54-109.15; 54-109.16;

Eff. February 1, 1976;

Readopted Eff. April 4, 1978;

Amended Eff. July 1, 2013; December 1, 1979;

Readopted Eff. February 1, 2018.

04 NCAC 06C .0901 CREDIT UNION AS CUSTODIAN

A credit union is authorized to act as custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension fund that qualifies or qualified for specific tax treatment under Section 401(d) or 408 of the Internal Revenue Code for its members, groups, or organizations of members. The funds of such plans shall be invested in share accounts of the credit union. All funds held in a custodial capacity shall be maintained in accordance with applicable State and federal laws, rules, and federal regulations, as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other State and federal authority exercising jurisdiction over such custodial accounts. The credit union shall maintain individual records for each participant that shows all transactions relating to the funds of each participant or beneficiary.

History Note: Authority G.S. 54-109.12; 54-109.17; 54-109.21(21); Eff. February 1, 1976; Readopted Eff. April 4, 1978; Readopted Eff. February 1, 2018.

04 NCAC 06C .1001 PERMANENT RECORD

- (a) Each credit union shall retain its records in a manner consistent with reasonable business practices as set forth in G.S. 54-109.17, rules and federal regulations.
- (b) The credit union shall permanently retain the original records of the credit union's charter, bylaws, and any amendments to those documents.
- (c) The following records shall be retained permanently in their original form or in any electronic or digital form that permits their retrieval and replication:
- (1) the minutes of meetings of members and of the board of directors;
 - (2) audit reports;
 - (3) copies of the examination reports of the Credit Union Division;

GENERAL LEDGER

General Ledger	15 years
Journal Cash (Journal of original entry)	15 years
Signature Cards (after the account is closed)	10 years
Shares and Deposits Subsidiary Ledger	10 years
Bank Reconciliations	10 years
Registers: (Check, Money Orders, and Collateral)	10 years
Record of Receipts (Deposit tickets, Payroll Deduction Records)	10 years
Withdrawal Slips: (Cash Payments, Check Payments)	10 years
Cancelled Checks, Money Orders, Cancelled Checks	10 years
Bank Statements	10 years
Bank Deposit Slips	10 years
Invoices for Sale or Purchase of Securities	10 years

ADMINISTRATIVE

Certificates and Licenses to Operate Under Programs of Various Government Agencies	
After the Term of the Program Expires	10 years
Minutes of the Credit Committee Meetings	10 years
Charged off Loans (Note and Application)(after the date of the charge off)	10 years
Charge off Ledger Sheet	10 years

LEGAL JUDICIAL AUTHORIZATION

Attachments or Garnishments	10 years
Bond Claims	10 years
Court Orders	10 years

MEMBER RECORDS

Transaction Records	10 years
Members Periodic Statements	10 years
Month End Trial Balance	2 years
Signature Cards (after the account is closed)	10 years

LOANS (COMMERCIAL, CONSUMER, AND MORTGAGE)

Subsidiary Loan Ledgers	10 years
Delinquent Loan Schedules	5 years

- (4) rulings and opinions from the Credit Union Division; and
- (5) supervisory committee minutes and audits.

History Note: Authority G.S. 54-109.12; 54-109.17; Eff. February 1, 1976; Readopted Eff. April 4, 1978; Amendment Eff. March 1, 2016; Readopted Eff. February 1, 2018.

04 NCAC 06C .1002 NONPERMANENT RECORDS

- (a) Each credit union shall retain nonpermanent records as defined in Paragraph (b) of this Rule, in a manner consistent with reasonable business practices as set forth in G.S. 54-109.17, rules, and federal regulations. The board of directors of the credit union shall determine the length of time that any nonpermanent record not specified in this Rule shall be retained based upon reasonable business practices.
- (b) All records not referenced in Rule .1001 of this Section shall be considered nonpermanent records.
- (c) The following nonpermanent records shall be retained in their original form or in any electronic or digital form that permits their retrieval and replication:

Loan Applications (after the loan is paid)

2 years

OTHER

Tax Records

10 years

Personnel Records

10 years

Expense Reimbursement Forms

5 years

Reports: Statistical Reports submitted to NCUA or Credit Union Division

10 years

Escheat records, including communications between the credit union and the NC Department of State Treasurer and records containing the information required to be included in the report filed with the State Treasurer pursuant to G.S. 116B-60.

10 years

History Note: Authority G.S. 54-109.12; 54-109.15; 54-109.17;
Eff. February 1, 1976;
Readopted Eff. April 4, 1978;
Amended Eff. March 1, 2016;
Readopted Eff. February 1, 2018.

04 NCAC 06C .1201 INVESTMENT ACTIVITIES

Investments shall be made pursuant to G.S. 54, Article 14 I. The Administrator shall consider agreements or options to buy or sell government securities at a future date that are speculative in nature as unsafe and unsound practices.

History Note: Authority G.S. 54-109.12; 54-109.82;
 54-109.92(a);
Eff. April 1, 1979;
Readopted Eff. February 1, 2018.

04 NCAC 06C .1204 FEDERAL FUNDS

A credit union may invest in federal funds through any federally-insured financial institution.

History Note Authority G.S. 54-109.21(8); 54-109.21(25);
 54-109.82(5); 54-109.82(12);
Eff. May 15, 1981;
Amended Eff. March 1, 2016; October 1, 1983;
Readopted Eff. February 1, 2018.

04 NCAC 06C .1301 SPECIAL RESERVES FOR LIQUIDITY

(a) Credit unions shall have a Liquidity Policy and Contingency Funding Plan as set forth in 12 C.F.R. Part 741.12, including any subsequent amendments, which are incorporated by reference and may be found at no cost on the Code of Federal Regulations website www.ecfr.gov.

(b) Credit unions with assets of two million (\$2,000,000) or more and credit unions that offer share draft accounts shall maintain a reserve of liquid assets (liquidity reserve) equal to a minimum of five percent of the total dollar value amount of the credit union's liability base.

(c) The liability base shall consist of shares, deposits, and notes payable with a maturity of less than one year. Pledged shares, deposits, or both shall be exempted up to the amount of the loans.

(d) The liquidity reserve shall consist of the following:

- (1) cash;
- (2) shares;
- (3) deposits in the National Credit Union Administration Central Liquidity Facility,

corporate credit unions, or other financial institutions;

(4) investments with a maturity of less than one year as authorized by G.S. 54-109.82 (3),(4),(5),(9),(10), and (12); and

(5) Government securities with a maturity of more than one year may be included, provided securities are carried at the lower of cost or market and adjusted on a monthly basis. Documentary evidence shall be kept on file supporting the adjustments for a period of 18 months.

(e) The liquidity reserve shall be determined monthly, not later than the tenth day of each month, and shall be based on the credit union's liability base as the last day of business of the preceding month.

(f) The liquidity reserve shall be used to satisfy contractual line of credit agreements, shares, and deposit withdrawals. In the event the liquidity reserve falls below the required amount as set forth in G.S. 54-109.86, the credit union shall immediately notify the Administrator. The credit union shall have 60 days to replenish the liquidity reserve.

(g) In any special case, the Administrator shall have the authority to require a liquidity reserve for credit unions with assets of less than two million dollars (\$2,000,000) if necessary to meet the liquidity needs of its creditors, as set forth in G.S. 54-109.86(c).

History Note: Authority G.S. 54-109.12; 54-109.86(b);
 54-109.86(c)(2);
Eff. December 1, 1979;
Amended Eff. February 1, 1992; March 1, 1980;
Readopted Eff. February 1, 2018.

04 NCAC 06C .1302 OTHER RESERVES

(a) Regular reserves shall be maintained as set forth in G.S. 54-109.86.

(b) Special reserves for delinquent loans and reserves for line of credit shall be maintained as required in Rules .0401 and .0404(b) of this Subchapter.

History Note: Authority G.S. 54-109.12; 54-109.86(a)(b)(c);
Eff. December 1, 1979;

Readopted Eff. February 1, 2018.

TITLE 07 - NATURAL AND CULTURAL RESOURCES

07 NCAC 02G .0101 SCOPE OF RULES
07 NCAC 02G .0102 ELIGIBILITY FOR STATE
LIBRARY SERVICES

History Note: Authority G.S. 125-2; 125-7; 125-8; 143B-10; Eff. April 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017;
Repealed Eff. February 1, 2018.

07 NCAC 02H .0103 ACCESS AND CIRCULATION

- (a) Use of Library resource collections shall vary in accordance with resource format and circulation status, as set forth in the rules in this Subchapter.
- (b) Printed collection materials shall be designated as circulating or non-circulating. Circulated materials may be used outside of the Library in accordance with the rules set forth in this Subchapter. Select printed materials designated as non-circulating shall not be used outside the Library. Non-circulating items include general reference materials, permanent depository copies of State documents, rare books, vertical file materials, periodicals, print newspapers, and the genealogy reference collection.
- (c) If a borrower loses or damages Library materials charged in the borrower's name, the borrower shall be responsible for the cost of replacing the material. Library borrowing privileges shall be withheld in accordance with Rule .0109 of this Subchapter.

History Note: Authority G.S. 125-2; Eff. April 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017;
Amended Eff. February 1, 2018.

07 NCAC 02H .0104 REPRODUCTION SERVICES
07 NCAC 02H .0105 INFORMATION, REFERENCE
AND RESEARCH SERVICES

History Note: Authority G.S. 125-2; 143B-10; Eff. April 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017;
Repealed Eff. February 1, 2018.

07 NCAC 02H .0106 SERVICES FOR STATE
AGENCIES

- (a) State agencies may receive library services, such as cataloging, classification, collection assessment, metadata, digitization, digital information management, reference research, or the preservation of print and digital resources by submitting a request in writing to the State Library, 4640 Mail Service Center, Raleigh, NC 27699. All requests shall include the following:
 - (1) the name and address of the State agency;
 - (2) a description of the service(s) needed; and

- (3) contact information for the State agency personnel overseeing the project.
- (b) The State Librarian shall determine library services considering factors that include staff availability, work priorities, and accessibility of equipment and materials.
- (c) The Library and the recipient State agency shall sign a memorandum of understanding that specifies the responsibilities and relationship between the two agencies for requests made under this Rule.

History Note: Authority G.S. 125-2; Eff. April 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017;
Amended Eff. February 1, 2018.

07 NCAC 02H .0302 ELIGIBILITY

Eligibility for the services of the Library for the Blind and Physically Handicapped shall be determined by the Federal guidelines in 36 C.F.R. 701.6 which is incorporated by reference, including subsequent amendments and editions, and available for free at https://www.ecfr.gov/cgi-bin/text-idx?SID=56ff245ec016601b46b55f2331b4b7ee&mc=true&node=se36.3.701_16&rgn=div8 and is applied to all applicants.

History Note: Authority G.S. 125-2; Eff. April 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017;
Amended Eff. February 1, 2018.

07 NCAC 02H .0303 APPLICATION

(a) To obtain services from the Library for the Blind and Physically Handicapped, users shall submit an application to the Library, 1841 Capital Boulevard, Raleigh, North Carolina 27635. Applications shall be submitted on a form prepared by the Library and include the user's:

- (1) name, address, and telephone number;
- (2) county of residence;
- (3) date of birth;
- (4) gender;
- (5) name, address, and telephone number of a friend or relative;
- (6) status as an honorably discharged veteran of the Armed Forces of the United States;
- (7) qualifying disability including:
 - (A) blindness;
 - (B) visual handicap;
 - (C) physical handicap;
 - (D) reading disability; or
 - (E) deaf and blind;
- (8) degree of hearing impairment of either:
 - (A) moderate – some difficulty understanding speech; or
 - (B) profound – cannot hear or understand speech;

- (9) preferred items such as books recorded on digital cartridge with digital player, braille books, large print books, or music;
- (10) necessity for special attachments such as headphones, amplifier, breath switch, or remote control;
- (11) language preference;
- (12) service preference such as:
 - (A) requested materials only; or
 - (B) materials requested by the Library based upon selected reading preferences;
- (13) reading preferences such as Fiction, Non-Fiction, Adventure, Aging/Retirement, Animal Stories, Arts, Best Sellers, Biography, Black Literature, Technology/Computers, Classics, Cooking/Homemaking, Current Events, Disabilities, Family Stories, Fantasy, Folklore/Fairy Tales, General Fiction, Health/Medicine, Historical Fiction, History-US, History-World, Humor, Marriage/Family, Mysteries, Nature, North Carolina, Occult/Horror, Plays, Poetry, Politics/Government, Psychology, Religious Inspiration, Religion (scholarly), Romance, Science, Science Fiction, Sea Stories, Short Stories, Sports, Spy Stories, Business, Travel, War Stories, or Western; and
- (14) reading restrictions such as strong language, violence, or explicit descriptions of sex.

(b) Applications shall be certified by a competent authority and shall include the competent authority's name, address and telephone number, title and occupation, and an original signature. A competent authority shall be defined as provided in 36 CFR 701.6(b)(2), which is incorporated by reference, including subsequent amendments and editions, and available for free at https://www.ecfr.gov/cgi-bin/text-idx?SID=56ff245ec016601b46b55f2331b4b7ee&mc=true&node=se36.3.701_16&gn=di8. A competent authority shall not be relatives of the applicant, even if otherwise qualified.

History Note: Authority G.S. 125-2;
Eff. April 1, 2011;
Readopted Eff. February 1, 2018.

07 NCAC 02H .0304 LIBRARY COLLECTIONS

History Note: Authority G.S. 125-2; 143B-10;
Eff. April 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017;
Repealed Eff. February 1, 2018.

07 NCAC 02H .0305 CIRCULATION

(a) The Library shall provide materials and playback equipment to users in accordance with the Library of Congress' NLS Network Library Manual hereby incorporated by reference, including subsequent amendments and additions, and accessible to users free of charge at <http://www.loc.gov/nlsold/nlm/>.

(b) The following violations by any Library user shall result in the suspension of Library services:

- (1) failure to return materials within the borrowing period. The borrowing period for materials are as follows:
 - (A) six weeks for books;
 - (B) two weeks for magazines; and
 - (C) three weeks for DVD and VHS tapes;
- (2) damage to equipment or materials;
- (3) unauthorized use of materials or equipment, such as loaning materials or equipment to an ineligible person or modification of items owned by the Library; or
- (4) exhibiting verbal or physical behavior toward Library staff that is abusive, offensive, or threatening, as determined by the Director of the Library for the Blind and Physically Handicapped.

(c) The period of suspension shall not exceed six months as determined by the Director of the Library for the Blind and Physically Handicapped. In setting the period of suspension, the Director shall consider the violation, the extent of harm to the Library's property, and any violations previously committed by the user. The Director shall send a letter of suspension to the user via U.S. Mail. The letter shall specify the violation and the period of suspension. Upon expiration of the suspension period, the user may contact the Library for resumption of services.

History Note: Authority G.S. 125-2;
Eff. May 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017;
Amended Eff. February 1, 2018.

07 NCAC 02I .0101 SCOPE OF RULES

History Note: Authority G.S. 125-2; 125-7; 125-8; 143B-10;
Eff. April 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017;
Repealed Eff. February 1, 2018.

07 NCAC 02I .0202 STATE AID GRANTS FROM THE AID TO PUBLIC LIBRARIES FUND

Libraries shall qualify for State Aid Grants by meeting the requirements listed in Rule .0201 of this Section. All grants shall be contingent upon appropriations budgeted by the General Assembly and subject to the approval of the Secretary of the Department of Natural and Cultural Resources. State Aid Grants may be used for materials, salaries, equipment, and operating costs.

History Note: Authority G.S. 125-7;
Eff. April 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017;
Amended Eff. February 1, 2018.

07 NCAC 02I .0302 REGIONAL AGREEMENT

- (a) An agreement establishing a regional library shall contain:
- (1) the structure of the regional library board of trustees;
 - (2) the powers and duties of the regional library board;
 - (3) the financial structure of the regional library;
 - (4) the terms of property ownership and any conditions of joint ownership including property rights in the event of withdrawal from or dissolution of the regional library;
 - (5) provisions for amendment;
 - (6) provisions for withdrawal by a member county or dissolution of the regional library; and
 - (7) provisions for termination of the regional agreement.
- (b) Agreements establishing regional libraries shall comply with G.S. 160A, Article 20.

History Note: Authority G.S. 125-2;

Eff. April 1, 2011;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017;

Amended Eff. February 1, 2018.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 02D .2203 PUBLIC NOTICE

(a) The requirements of this Rule for public notice and public hearing shall apply to Consent Orders. The Commission may specify other conditions for Special Orders issued without consent if such conditions are necessary to achieve or demonstrate compliance with a requirement under this Subchapter or 15A NCAC 02Q.

(b) Notice of proposed Consent Order:

- (1) The Director shall give notice pursuant to G.S. 143-215.110(a1).
- (2) The Director shall give notice of a proposed Consent Order 30 days prior to any final action regarding the Consent Order.
- (3) The notice shall be posted on the North Carolina Division of Air Quality web site at <http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-orders-by-consent> and provided to those persons specified in G.S. 143-215.110(a1)(1) for air quality special orders.
- (4) The notice shall include at least the following:
 - (A) name, address, and telephone number of the Division;
 - (B) name and address of the person to whom the proposed order is directed;
 - (C) a brief summary of the conditions of the proposed order, including the period of time during which action must be taken to achieve compliance and the major permit conditions or

emission standards that the source will be allowed to exceed during the pendency of the order;

- (D) a brief description of the procedures to be followed by the Commission or Director in reaching a final decision on the proposed order, which shall include descriptions of the process for submitting comments and requesting a public hearing. The description shall specify that comments and requests for a public hearing are to be received by the Division within 30 days following the date of public notice; and
- (E) a description of the information available for public review, where it can be found, and procedures for obtaining copies of pertinent documents.

(c) Notice of public hearing for proposed Consent Order:

- (1) The Director shall consider all requests for a public hearing, and if significant public interest for a public hearing exists, then he or she shall hold a public hearing.
- (2) The Director shall give notice of the public hearing at least 30 days before the hearing.
- (3) The notice shall be posted on the North Carolina Division of Air Quality web site at <http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-orders-by-consent> and provided to those persons specified in G.S. 143-215.110(a1)(2) for air quality special orders.
- (4) The notice shall include the information specified in Subparagraph (b)(4) of this Rule. It shall also state the time and location for the hearing and the procedures for providing comment.
- (5) The Chairman of the Commission or the Director shall appoint one or more hearing officers to preside over the public hearing and to receive written and oral comments. The hearing officer shall provide the Commission a written report of the hearing, which shall include:
 - (A) a copy of the public notice;
 - (B) a copy of all the written comments and supporting documentation received;
 - (C) a summary of all the oral comments received;
 - (D) recommendations of the hearing officer to the Commission; and
 - (E) a proposed Consent Order for the Commission's consideration.

(d) Any person may request to receive copies of all notices required by this Rule, and the Director shall mail copies of notices to those who have submitted a request.

(e) Any Consent Order may be modified by the Director to incorporate minor modifications, such as modification of standard conditions to reflect updated versions of federal or state regulations, correction of typographical errors, or interim date extensions, without public notice provided that the modifications do not extend the final compliance date by more than four months.

History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(3); 143-215.3(a)(4); 143-215.110;
Eff. April 1, 2004;
Readopted Eff. February 1, 2018.

15A NCAC 10B .0209 WILD TURKEY

(a) Open Seasons:

- (1) Spring Wild Turkey Season is from the second Saturday in April through the Saturday of the fourth week thereafter on only bearded or male turkeys in all counties statewide.
- (2) Spring Youth Only Wild Turkey Season is from the first Saturday in April until the Friday thereafter on only bearded or male wild turkeys. The bag limit during the Spring Youth Only Wild Turkey season is one bird. For purposes of this Subparagraph, a youth hunter is younger than 18 years of age.

(b) Bag Limits. The daily bag limit is one bird and the annual bag limit shall be two birds. Possession limit is two birds.

(c) Dogs. The use of dogs for hunting wild turkeys is prohibited.

(d) Kill Reports. The kill shall be validated at the site of kill and the kill reported as provided by 15A NCAC 10B .0113.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2; 113-291.5;
Eff. February 1, 1976;
Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1992;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2001;
Temporary Amendment Eff. July 1, 2002;
Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);
Temporary Amendment Eff. June 1, 2003;
Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);
Amended Eff. February 1, 2018; August 1, 2017; January 1, 2013;
May 1, 2009; May 1, 2007; November 1, 2005.

15A NCAC 10H .0801 DEFINITIONS

(a) In addition to the definitions contained in G.S. 113-130, as used in 15A NCAC 10B .0216 and in this Section, the following definitions apply:

- (1) "Falconry permit" or "permit" means a falconry permit or license issued by another state, tribe, or territory that has been approved by the U.S. Fish and Wildlife Service, as meeting the federal falconry standards in 50 CFR 21.29.

- (2) "Falconry license" means the annual special purpose falconry license required by G.S. 113-270.3(b)(4) and referenced in the rules of this Section.
- (3) "State" means the State of North Carolina, except when the context indicates reference to another state of the United States.
- (4) "Commission" means the North Carolina Wildlife Resources Commission.
- (5) "Executive Director" means the Executive Director of the North Carolina Wildlife Resources Commission.
- (6) "Bred in captivity" or "captive-bred" means raptors hatched in captivity from parents that mated or otherwise transferred gametes in captivity.
- (7) "Raptor" means a live migratory bird of the Order Accipitriformes, Order Falconiformes, or the Order Strigiformes, other than a bald eagle (*Haliaeetus leucocephalus*).
- (8) "Wild-caught" and "wild" raptors means any free-ranging wild raptor held in captivity regardless of its length of captivity or ownership changes in accordance with 50 CFR 21.29(f)(1).

(b) For this Section, 50 CFR 21.29 is hereby incorporated by reference, including all subsequent amendments and editions. 50 CFR 21.29 may be found free of charge at: www.ecfr.gov.

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;
Eff. September 1, 1979;
Amended Eff. January 1, 2012; May 1, 2007; May 1, 1995; August 1, 1988; February 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. February 1, 2018.

15A NCAC 10H .0802 PERMIT AND LICENSE REQUIREMENTS

(a) Non-residents of this State shall not take, possess, transport, or import a raptor for falconry purposes or practice falconry in this State without first obtaining the following:

- (1) a falconry license or permit from a state, tribe, or territory that has been approved by the U.S. Fish and Wildlife Service as meeting federal falconry standards; and
- (2) a North Carolina falconry license as required by G.S. 113-270.3(b)(4), unless traveling through North Carolina with no intention of practicing falconry while in North Carolina.

(b) Residents of this State shall not take, possess, transport, or import a raptor for falconry purposes or practice falconry in this State without having first obtained a North Carolina falconry license.

(c) A North Carolina resident who holds a falconry license issued by the Commission may transport his or her raptors into or through other states, tribal lands, and territories for use in falconry, and shall observe all laws and regulations of such states

governing the possession and transportation of raptors and the practice of falconry.

(d) In addition to criminal penalties for violation provided by federal law and state statute, licenses shall be subject to suspension or revocation in accordance with applicable state and federal law.

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. January 1, 2012; July 1, 1998;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2018.

15A NCAC 10H .0803 APPLICATION FOR LICENSE

(a) Any individual who wishes to take raptors or to practice falconry in this State shall apply for a falconry license from the Commission, at www.ncwildlife.org, by providing the following information: applicant's name, residence address, date of birth, and facility address, if applicable. Applicants shall either have passed the examination as described in Rule .0804 of this Section, or provide proof of a valid falconry permit or license from another state, provided the state that issued the falconry permit or license has been approved by the U.S. Fish and Wildlife Service.

(b) Individuals who have relocated to North Carolina have 60 days from the date of relocation to apply for a North Carolina falconry license. Until his or her license is issued by the Commission, the individual may keep any lawfully obtained raptors in facilities described in Rule .0808 of this Section, and may practice falconry provided he or she has a permit or license from a state, tribe, or territory that has been approved by the U.S. Fish and Wildlife Service.

(c) Apprentice license applications shall include a letter from a sponsor as described in 50 CFR 21.29(c)(2)(i)(C).

(d) General license applications shall include a letter from a General or Master falconer as described in 50 CFR 21.29(c)(2)(ii)(C).

(e) Any application submitted by an individual less than 18 years of age shall be co-signed by that individual's parent or legal guardian. The parent or legal guardian is responsible for the underage falconer's activities.

(f) A falconer with an expired license may apply for a new license at his or her previous level, provided the license has not been expired for more than five years, and the falconer can show he or she has previously met the requirements for the level of license sought. A falconer whose license has been expired for more than five years may apply for a new license, but he or she shall pass the examination described in Rule .0804 of this Section and pass a facility inspection described in Rule .0808 of this Section, in order to be reinstated at his or her previous level. He or she shall provide records showing the requirements for the level of license sought have been previously met.

(g) Applications shall be accompanied by a fee in the amount of ten dollars (\$10.00).

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2018.

15A NCAC 10H .0804 EXAMINATION

(a) Prior to applying for a falconry license, an applicant shall successfully pass, with a score of at least 80 percent, a falconry examination administered by the Commission, as detailed in 50 CFR 21.29(c).

(b) The examination is not required of any applicant who holds a valid permit from another state, tribe, or territory that has been approved by the U.S. Fish and Wildlife Service.

(c) The examination shall not be required for license renewal, provided the license has not been expired for more than five years.

(d) The cost for taking the examination is ten dollars (\$10.00).

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2018.

15A NCAC 10H .0805 DURATION OF LICENSE

A falconry license shall be valid upon issuance and expires on June 30 of each year.

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2018.

15A NCAC 10H .0806 ACQUISITION, SALE AND STATUS CHANGE

(a) A licensee may transfer a wild-caught raptor to another licensee if no money, goods, or services are exchanged. A licensee may purchase, sell, trade, or barter any lawfully possessed raptor that is bred in captivity under a federal raptor propagation permit and banded with a numbered seamless marker issued by the Commission, provided that the parties involved in the transaction are authorized to possess the raptor under this Section, 50 CFR 21, or the foreign country of his or her residence or domicile, in accordance with 50 CFR 21.29(f)(15).

(b) A licensee may acquire a raptor from a permitted rehabilitator subject to the restrictions and conditions set forth in 50 CFR 21.29(e)(7).

(c) A licensee shall not take, possess, or transport a raptor in violation of the restrictions, conditions, and requirements of the CFR 21.29, G.S. 113-270.3, and this Section.

(d) Upon the death of a licensee, any lawfully held raptors shall be transferred in accordance with 50 CFR 21.29(f)(21).

(e) Any status change of a raptor, including death of the raptor or the licensee, loss due to theft, acquisition, sale, transfer,

intentional release, and rebanding shall be reported to the U.S. Fish and Wildlife Service, as set forth in 50 CFR 21.29(e)(6).

(f) Dead birds shall be disposed of in a manner described in 50 CFR 21.29(f)(13).

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. January 1, 2012; February 1, 1994; April 1, 1991; February 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2018.

15A NCAC 10H .0807 LEVELS OF LICENSES

(a) Falconry licenses shall be issued at three levels based upon the age and experience of the falconer.

(b) Apprentice level falconry licenses shall be subject to the conditions, requirements, and limitations set forth in 50 CFR 21.29(c)(2)(i). In addition to the requirements of 50 CFR 21.29(c)(2)(i), the following conditions apply:

- (1) the apprentice's sponsor shall live within 200 miles of the apprentice;
- (2) a sponsor shall not have more than three apprentices at any one time; and
- (3) a sponsor shall provide written notification to the Commission when he or she decides to stop sponsoring an apprentice. The Commission shall notify the apprentice, who must obtain another sponsor and notify the Commission within 90 days.

(A) If after the 90-day period, the apprentice fails to obtain another sponsor, the disposition of the raptor(s) shall be determined on a case-by-case basis by the Commission and may include release or transfer to another licensed falconer, and the apprentice's license shall be suspended.

(B) If after 180 days, the apprentice fails to obtain another sponsor, the Commission shall revoke his or her license and he or she shall be required to reapply for an apprentice license.

(c) General level falconry licenses shall be subject to the conditions, requirements, and limitations set forth in 50 CFR 21.29(c)(2)(ii).

(d) Master level falconry licenses shall be subject to conditions, requirements, and limitations set forth in 50 CFR 21.29(c)(2)(iii).

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. January 1, 2012; May 1, 1995; May 1, 1991; February 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2018.

15A NCAC 10H .0808 FACILITIES AND EQUIPMENT

(a) Prior to initial issuance of a North Carolina falconry license to a resident of North Carolina, the applicant's raptor housing facilities and falconry equipment shall be inspected and approved by a representative of the Commission as meeting the standards set forth in this Rule. Applicants shall have indoor or outdoor holding facilities as described in Paragraph (b) of the Rule. Applicants may have both types of facilities.

(b) The applicant shall have holding facilities meeting the following standards, regardless of whether the facilities are located on property owned by the licensee or owned by another:

- (1) All facilities shall conform to the standards in 50 CFR 21.29(d)(1)(ii)(A).
- (2) Indoor facilities shall conform to the standards in 50 CFR 21.29(d)(1)(ii)(B). In addition to the incorporated CFR, the mew shall have a door that allows access for maintenance, that is securable inside and outside, and closes automatically. Mews shall be located away from disturbance and shade shall be provided. The floor of the mew shall allow for cleaning and drainage. The interior of the mew shall be free of obstructions that could be injurious to the raptor. Any lighting fixtures shall be shielded or otherwise protected.
- (3) Outdoor facilities shall conform to the standards in 50 CFR 21.29(d)(1)(ii)(D). In addition to the incorporated CFR, covers or roofs shall not be less than seven feet high. The enclosed area shall be large enough to ensure the raptor cannot strike the sides, cover, or roof of the enclosure when flying from the perch. The floor of the weathering area shall allow for drainage to prevent standing water. At least two perches shall be provided for the raptor.
- (4) Raptors may be brought inside a human dwelling as needed to address health, training, and safety issues. The residence shall conform to the standards in 50 CFR 21.29(d)(1)(ii)(C).
- (5) A licensee may have his or her raptors outside in the open under the conditions set forth in 50 CFR 21.29(d)(1)(iii).

(c) Licensees shall possess the equipment listed in 50 CFR 21.29(d)(3).

(d) All facilities and equipment shall be maintained at or above the standards contained in Paragraphs (b) and (c) of this Rule at all times.

(e) A raptor may be transported or held in temporary facilities as described in 50 CFR 21.29(d)(4) and (5).

(f) A licensee may leave his or her raptors in the care of another person subject to the restrictions in 50 CFR 21.29(d)(6) and (7).

(g) A licensee shall inform the Commission within five business days if he or she moves his or her facilities.

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. January 1, 2012; May 1, 1995; April 1, 1991;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. February 1, 2018.*

15A NCAC 10H .0809 BANDING AND MARKING

- (a) All peregrine falcons (*Falco peregrinus*), gyrfalcons (*Falco rusticolus*), Harris's hawks (*Parabuteo unicinctus*), and goshawks removed from the wild or acquired from a falconer or rehabilitator for falconry purposes shall be banded as set forth in 50 CFR 21.29(c)(6)(i).
- (b) Raptors bred in captivity shall be banded as set forth in 50 CFR 21.29(c)(6)(ii).
- (c) Loss or removal of any band shall be reported to the Commission within five days of the loss and shall be replaced as described in 50 CFR 21.29(c)(6)(iii).
- (d) No person shall counterfeit, alter, or deface any band required by this Rule, except that licensees may remove the rear tabs on bands and may smooth any surface imperfections, provided the integrity of the bands and numbering are not affected.
- (e) A raptor removed from the wild shall not be marked with a seamless numbered band.
- (f) A falconer may request and receive a band exemption from the Commission for a raptor with documented health problems or injuries caused by a band, but shall adhere to the restrictions set forth in 50 CFR 21.29(c)(6)(v).

*History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;
Eff. September 1, 1979;
Amended Eff. January 1, 2012; April 1, 1991; July 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. February 1, 2018.*

15A NCAC 10H .0810 TAKING RAPTORS

- (a) No raptor shall be taken from the wild in this State except by an individual holding a current falconry license as defined in Rule .0801 of this Section, or a falconry permit or license from the individual's state of residence if the individual is a non-resident of North Carolina. Falconers may only take species of raptors from the wild that are authorized under their level of permit or license. If a falconer captures an unauthorized species of raptor or other bird, he or she must release that bird immediately upon capture.
- (b) All levels of licensees may take up to two raptors from the wild annually, subject to the conditions and restrictions set forth in 50 CFR 21.29(e)(2). Apprentices may keep only one bird at a time.
- (c) Apprentices may take any species of raptor from the wild except for those species specified in 50 CFR 21.29 (c)(2)(i)(E).
- (d) Any raptor native to this State may be taken from the wild subject to the restrictions on species and license level as follows:
 - (1) Only persons holding General or Master level falconry licenses may take nestlings. Nestlings may only be taken from May 1 through June 30. No more than two nestlings may be taken by the same licensee. At least one nestling shall be left in the nest or aerie.
 - (2) First year (passage) birds may be taken from August 1 through the last day of February,

- except that marked raptors may be retrapped at any time.
- (3) American kestrels (*Falco sparverius*) and great horned owls (*Bubo Virginianus*) may only be taken when over one year old. Only General and Master falconers may take this age class in accordance with 50 CFR 21.29(e)(3)(i). The time period for taking is from August 1 through the last day of February.
- (4) Only General and Master falconers may take a federally threatened species and the falconer shall follow the restrictions in 50 CFR 21.29(e)(3)(ix).
- (5) A falconer shall obtain a North Carolina endangered species permit before taking any raptors listed in 15A NCAC 10I .0103, 15A NCAC 10I .0104, or 15A NCAC 10I .0105. Furthermore, a falconer shall possess a special hunt permit to take a passage peregrine falcon (*Falco peregrinus tundrius*).
- (e) Traps shall be designed to prevent injury to the raptor. All traps except box-type traps shall be attended and visible to the trapper at all times when in use. Box-type traps must be checked every 24 hours. Traps must be of one of the following types:
 - (1) Leg noose snare traps, the nooses of which shall be tied to prevent the noose from locking when under pressure. The trapper shall use a drag weight based on the species being trapped.
 - (2) Nets that collapse on and enclose around the raptor.
 - (3) Box-type traps with automatic closing entry doors or funnels.
- (f) Licensees may recapture their own birds or any birds wearing falconry equipment at any time. Disposition of banded birds, captive-bred birds, and birds wearing falconry equipment is as allowed in accordance with 50 CFR 21.29(e)(3)(iv)-(v).
- (g) Licensees shall keep their license on their person when trapping raptors.
- (h) Raptors injured due to falconry trapping efforts shall be treated humanely and in accordance with 50 CFR 21.29(e)(5).

*History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;
Eff. September 1, 1979;
Amended Eff. January 1, 2012; July 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. February 1, 2018.*

15A NCAC 10H .0811 OTHER RESTRICTIONS AND CONDITIONS

- (a) Every falconer shall carry his or her license on his or her person when conducting any falconry activities away from approved facilities as described in Rule .0808 of this Section.
- (b) Visitors to the United States may practice falconry under the conditions set forth in 50 CFR 21.29(f)(14).
- (c) A licensee may take his or her raptors to another country to practice falconry under the conditions set forth in 50 CFR 21.29(f)(15).

(d) A licensee who practices falconry in the vicinity of a federally listed species shall avoid take of the listed species as described in 50 CFR 21.29(f)(17).

(e) If a licensee's raptor unintentionally takes a species, the licensee may allow his or her bird to feed on the prey, but shall not take the species into his or her possession.

(f) Feathers that are molted may be retained and exchanged by falconry licensees only for imping purposes or otherwise disposed of as set forth in 50 CFR 21.29(f)(12).

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2018.

15A NCAC 10H .0812 INTERSTATE TRANSPORTATION

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. September 1, 1979;

Amended Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Repealed Eff. February 1, 2018.

15A NCAC 10H .0814 RELEASE OF RAPTORS AND MOVING RAPTORS TO ANOTHER LICENSE OR PERMIT

(a) Non-native and hybrid raptors shall not be released into the wild. Native, captive-bred birds may only be released upon written request and approval from the Commission and under the conditions set forth in 50 CFR 21.29(e)(9)(ii).

(b) Native wild birds may be released into the wild under the conditions set forth in 50 CFR 21.29(e)(9)(iii).

(c) Wild-caught birds may be transferred to another type of license or permit under the conditions set forth in 50 CFR 21.29(f)(5).

(d) Captive-bred birds may be transferred to another type of license or permit under the conditions set forth in 50 CFR 21.29(f)(6).

(e) Hacking and other training and conditioning techniques are allowed under conditions set for in 50 CFR 21.29(f)(2) and (3).

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2018.

15A NCAC 10H .0815 OTHER USES AND ALLOWED ACTIVITIES

(a) Raptors may be used in captive propagation as allowed under 50 CFR 21.29(f)(7).

(b) General and Master falconers may use raptors in conservation education programs as set forth in 50 CFR 21.29(f)(8). Other educational uses of raptors are restricted to those allowed in 50 CFR 21.29(f)(9).

(c) General and Master falconers may use raptors in abatement activities under the conditions set forth in 50 CFR 21.29(f)(11).

(d) General and Master falconers may assist in raptor rehabilitation under the conditions set forth in 50 CFR 21.29(f)(10).

(e) Licensees may take bird species for which there is a federal depredation order by means of falconry in accordance with 50 CFR 21.29(f)(20).

History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;

Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2018.

15A NCAC 10H .1002 DUTY OF A TAXIDERMIST

(a) Prior to a taxidermist accepting delivery of wildlife that has been taken in North Carolina or in any other state, he or she shall make a reasonable effort to determine that the wildlife was lawfully taken. The taxidermist may rely upon the statement of the person delivering the wildlife or upon any applicable license or permit that provides verification of entitlement to take or possess the wildlife in question.

(b) A taxidermist may accept delivery of wildlife resources killed accidentally or found dead of natural causes as specified by 15A NCAC 10B .0127 for taxidermy purposes.

History Note: Authority G.S. 113-134; 113-273;

Eff. March 1, 1981;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2018.

15A NCAC 10H .1003 RECORDS

(a) Licensed taxidermists shall keep records of each wildlife specimen delivered and contained within his or her place of business. Records shall include:

- (1) the species and sex of the specimen;
- (2) the date the specimen was delivered;
- (3) the name and address of the person delivering the specimen;
- (4) the name and address of the person responsible for take of the specimen, if different;
- (5) the date and location of the take;
- (6) the big game harvest authorization number, if applicable; and
- (7) the date and disposition of the mounted specimen.

Records shall be maintained chronologically by the date the specimen was delivered. Records shall be retained by the taxidermist for one year following expiration of the taxidermy license and shall be made available for inspection by any agent of the Wildlife Resources Commission.

(b) The records required by the United States Fish and Wildlife Service under its taxidermy permit regulations for migratory game birds, as set forth in 50 CFR 21.24, which is hereby incorporated by reference including subsequent amendments and editions, shall satisfy this Rule, and can be accessed at no cost at www.ecfr.gov.

History Note: Authority G.S. 113-134; 113-273; Eff. March 1, 1981; Amended Eff. September 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. February 1, 2018.

15A NCAC 10H .1004 PURCHASE AND SALE OF WILDLIFE

- (a) Except as provided in this Rule, it shall be unlawful for any taxidermist to purchase or sell wildlife.
- (b) Wildlife resources that have been lawfully killed and that may be lawfully bought, sold, and possessed may be purchased and sold by a taxidermist without any restriction other than the records required by Rule .1003 of this Section.
- (c) Lawfully acquired specimens of fur-bearing animals, bobcats, opossum, and raccoon taken by hunting, may be purchased for taxidermy purposes and sold as mounted specimens. A Fur-Dealer License, as specified in G.S. 113-273, shall be required to purchase furs for resale.
- (d) No game or game fish that has been mounted, other than bobcats, opossum, and raccoon taken by hunting, may be purchased or sold, except that a mounted specimen of game or game fish, for which a taxidermist has acquired a possessory lien by reason of labor or materials furnished in the mounting thereof, may be sold in satisfaction of the lien as provided by Article 1 of 44A of the General Statutes of North Carolina. Upon the sale of a mounted specimen authorized by this Paragraph, the taxidermist shall prepare a receipt showing the name and address of the purchaser. The receipt shall be provided to the purchaser as evidence of the transaction and right to possess the specimen, and a copy shall be retained by the taxidermist for his or her records in accordance with Rule .1003 of this Section.
- (e) Nothing in this Rule shall prevent a taxidermist from obtaining parts of lawfully acquired game by gift, trade, or purchase from any other taxidermist or person, provided that a record is maintained of all such exchanges that identifies the article and includes the name and address of the taxidermist or person from whom the article was obtained. No part of any black bear shall be bought or sold under this Paragraph. Parts of game acquired under this Paragraph shall be used only for taxidermy purposes and shall not be resold.
- (f) The mounted specimens of commercially-raised game fish or pen-raised game birds may be sold under authority of the taxidermy license, provided that records are maintained by the taxidermist showing the source of all commercially-raised game fish or pen-raised game birds that are to be mounted, including the name, address, and propagation license number of the supplier. Upon sale of a mounted specimen of a commercially-raised game fish or pen-raised game bird, the taxidermist shall prepare a receipt for the purchaser's records, as evidence of the transaction

and right to possess the specimen. A copy of the receipt shall be maintained as a part of the taxidermist's records.

History Note: Authority G.S. 113-134; 113-273; 113-291.3(b); 113-292; Eff. March 1, 1981; Amended Eff. December 1, 1983; Readopted Eff. February 1, 2018.

15A NCAC 10H .1005 TAXIDERMY PRESERVATION FACILITY

- (a) A taxidermist may utilize an off-site preservation facility to provide storage for wildlife specimens accepted for taxidermy purposes.
- (b) Individuals operating a preservation facility for a licensed taxidermist shall be listed on the taxidermist's annual license. The taxidermist shall provide the operator of each listed preservation facility with a copy of the annual taxidermy license to serve as a permit authorizing the facility to possess wildlife owned by another.
- (c) Preservation facility operators shall not be authorized to process, skin, or conduct any taxidermy activities.
- (d) Before a taxidermist delivers and stores wildlife in a preservation facility, he or she shall ascertain that the wildlife was lawfully taken in accordance with Rule .1002 of this Section and shall keep written records as specified in Rule .1003 of this Section.
- (e) The preservation facility and its records shall be accessible for inspection by any agent of the Wildlife Resources Commission.
- (f) It shall be the responsibility of the taxidermist to ensure that each preservation facility listed on his or her license is operated in compliance with this Section.

History Note: Authority G.S. 113-134; 113-273; Eff. September 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. February 1, 2018.

15A NCAC 27 .0702 REQUIREMENTS OF CERTIFICATION

- (a) Level A- To obtain Level A certification, an applicant must:
 - (1) Submit proof of 18 months of level specific well contractor experience as specified in Rule .0110 of this Chapter or submit a combination of proof of completion of approved training as specified in Paragraph (g) of Rule .0301 with proof of level specific well contractor experience;
 - (2) Complete the well contractor certification field observation with a passing score or submit proof of successful completion of approved training as specified in Paragraph (g) of Rule .0301; and
 - (3) Pass the Level A written examination.
- (b) Level B- To obtain Level B certification, an applicant must:

- (1) Submit proof of 12 months experience in level specific well contractor activities as specified in Rule .0110 of this Chapter or submit a combination of proof of completion of approved training as specified in Paragraph (g) of Rule .0301 with proof of level specific well contractor experience; and
- (2) Pass the Level B written examination.
- (c) Level C- To obtain Level C certification, an applicant must:
 - (1) Submit proof of six months experience in level specific well contractor activities as specified in Rule .0110 of this Chapter or submit a combination of proof of completion of approved training as specified in Paragraph (g) of Rule .0301 with proof of level specific well contractor experience; and
 - (2) Pass the Level C written examination.
- (d) Level D- To obtain Level D certification, an applicant must:
 - (1) Submit proof of six months experience in level specific well contractor activities as specified in Rule .0110 of this Chapter or submit a combination of proof of completion of approved training as specified in Paragraph (g) of Rule .0301 with proof of level specific well contractor experience; and
 - (2) Pass the Level D written examination.
- (e) If a certificate issued under this Section is not renewed in accordance with G.S. 87-98.7 or is revoked the well contractor must apply for certification by examination in order to be recertified.

History Note: Authority G.S. 87-98.5; 143B-301.11; Eff. May 1, 2008; Amended Eff. February 1, 2018; May 1, 2011.

TITLE 19A - DEPARTMENT OF TRANSPORTATION

19A NCAC 06D .0203 DESIGNING FOR BICYCLES AND BIKEWAYS

History Note: Authority G.S. 136-71.10; 136-71.11; 143B-350(f); Board of Transportation Minutes for November 10, 1978; Eff. January 1, 1979; Amended Eff. December 1, 1993; Repealed Eff. February 1, 2018.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 08 - CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

21 NCAC 08F .0103 FILING OF EXAMINATION APPLICATIONS AND FEES

- (a) All applications for CPA examinations shall be filed with the Board and accompanied by the examination fee. The Board sets the fee for each examination at the amount that enables the Board to recover its actual costs of examination services. If a check or credit card authorization fails to clear the bank, the application shall be deemed incomplete and returned. CPA Exam applications and fee information are on the Board's website at www.nccpaboard.gov and may be requested from the Board.
- (b) The initial application filed to take the examination shall include supporting documentation demonstrating that all legal requirements have been met, including:
 - (1) minimum legal age;
 - (2) education; and
 - (3) good moral character.
- (c) Any person born outside the United States shall furnish to the Board office evidence of citizenship; evidence of resident alien status; or
 - (1) other bona fide evidence that the applicant is legally allowed to remain in the United States;
 - (2) a notarized affidavit of intention to become a U.S. citizen; or
 - (3) evidence that the applicant is a citizen of a foreign jurisdiction that extends to citizens of this State like or similar privileges to be examined.
- (d) Official transcripts (originals-, not photocopies) signed by the college registrar and bearing the college seal are required to prove education and degree requirements. A letter from the college registrar of the school may be filed as documentation that the applicant has met the graduation requirements if the degree has not been awarded and posted to the transcript. No examination grades shall be released until an official transcript is filed with the Board confirming the education requirement as stated in the college registrar's letter.
- (e) Applicants for re-examination shall not re-submit official transcripts, additional statements, or affidavits regarding education.
- (f) To document good moral character as required by G.S. 93-12(5), three persons not related by blood or marriage to the applicant shall sign the application certifying the good moral character of the applicant and the Board shall conduct a background check of the applicant including a check of criminal records.
- (g) An applicant shall include as part of any application for the CPA examination a statement of explanation and a certified copy of the final disposition if the applicant has been arrested, charged, convicted or found guilty of, received a prayer for judgment continued, or pleaded nolo contendere to any criminal offense. An applicant shall not be required to disclose any arrest, charge, or conviction that has been expunged by the court.
- (h) If an applicant has been denied any license by any state or federal agency, the applicant shall include as part of the application for the CPA examination a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.

(i) Two identical photographs shall accompany the application for the CPA examination. These photographs shall be of the applicant alone, 2x2 inches in size, front view, full face, taken in normal street attire without a hat or dark glasses, printed on paper with a plain light background and taken within the last six months. Photographs may be in black and white or in color. Retouched photographs shall not be accepted. Applicants shall write their names on the back of their photographs.

(j) If an applicant's name has legally changed and is different from the name on any transcript or other document supplied to the Board, the applicant shall furnish copies of the documents legally authorizing the name change.

(k) Candidates shall file initial and re-exam applications to sit for the CPA Examination on forms provided by the Board.

(l) Examination fees are valid for a six-month period from the date of the applicant's notice to schedule for the examination from the examination vendor.

(m) No application for examination shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or conditionally suspended sentence, any of which are imposed as a result of having been convicted or having pled to a criminal charge.

History Note: Authority G.S. 93-2; 93-9(12); 93-10; 93-12(3); 93-12(4); 93-12(5); 93-12(7);

Eff. February 1, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. January 1, 2014; February 1, 2011; January 1, 2006; January 1, 2004; August 1, 1998; February 1, 1996; April 1, 1994; March 1, 1990; May 1, 1989;

Readopted Eff. February 1, 2016;

Amended Eff. February 1, 2018.

21 NCAC 08F .0502 APPLICATION FOR CPA CERTIFICATE

(a) A person applying for a certificate of qualification shall file with the Board an application and an experience affidavit on forms provided by the Board and supporting documentation to determine that the applicant has met the statutory and rule requirements. CPA certificate applications and fee information are on the Board's website at www.nccpaboard.gov or may be requested from the Board.

(b) The application for a CPA certificate shall include three certificates of good moral character provided by the Board and completed by CPAs and the Board shall conduct a background check of the applicant including a check of criminal records.

(c) An applicant shall include as part of any application for a CPA certificate a statement of explanation and a certified copy of final disposition if the applicant has been arrested, charged, convicted or found guilty of, received a prayer for judgment continued, or pleaded nolo contendere to any criminal offense. An applicant shall not be required to disclose any arrest, charge, or conviction that has been expunged by the court.

(d) If an applicant has been denied any license by any state or federal agency, the applicant shall also include as part of the application for the CPA certificate a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has

been registered with or licensed by a state or federal agency and has been disciplined by that agency.

(e) No application for a certificate shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or conditionally suspended sentence, any of which are imposed as a result of having been convicted or having pled to a criminal charge.

History Note: Authority G.S. 93-2; 93-9(12); 93-10; 93-12(3); 93-12(5);

Eff. December 1, 1982;

Amended Eff. January 1, 2014; March 1, 1990; May 1, 1989; October 1, 1984;

Readopted Eff. February 1, 2016;

Amended Eff. February 1, 2018.

CHAPTER 66 - VETERINARY MEDICAL BOARD

21 NCAC 66 .0206 MINIMUM STANDARDS FOR CONTINUING EDUCATION

Each person holding a veterinary license, limited license, a faculty certificate, or a zoo veterinary certificate (collectively referred to herein as "veterinarian") or a veterinary technician registration issued by the Board shall comply with the standards in this Rule. The standards shall be a condition precedent to the renewal of a license certificate or registration, respectively. The standards are as follows:

- (1) Continuing education credit hours shall relate to veterinary medicine.
- (2) A veterinarian shall earn 20 continuing education credit hours for the calendar year license renewal period.
- (3) A veterinary technician shall earn 12 continuing education credit hours for the two calendar year registration renewal period.
- (4) A veterinarian or veterinary technician may request and be granted an extension of time, not to exceed six months, to satisfy the continuing education requirement if the veterinarian or veterinary technician provides evidence of a debilitating injury or illness or circumstance that prevents the veterinarian or veterinary technician from being able to obtain continuing education. If the veterinarian or veterinary technician submits evidence of failure to complete continuing education due to debilitating injury or illness or hardship, the Board shall consider the evidence submitted on a case-by-case basis. If the Board finds that the debilitating injury or illness or hardship was the basis for non-compliance with the continuing education requirement, the Board shall exempt that individual from completing the unearned portion of the continuing education for that renewal period.

- (5) Continuing education credits hours may be earned from courses, programs, or materials presented or approved by the following providers:

- (a) the American Veterinary Medical Association (AVMA);
- (b) the American Animal Hospital Association (AAHA);
- (c) the North Carolina Veterinary Medical Association (NCVMA);
- (d) the American Association of Veterinary State Boards' (AAVSB) Registry of Approved Continuing Education (RACE); and
- (e) academies, schools, or colleges of veterinary medicine.

These providers are designated herein as "approved continuing education credit providers."

The Board shall consider additional courses, presentations, or materials eligible for approval for continuing education credit hours, provided that the individual seeking the credit furnishes the Board information to establish that the content of the course, presentation, or material are of an educational level reflective of the audience (veterinarians or veterinary technicians). Board approval for continuing education credits for such additional courses, presentations, or materials shall be obtained prior to attendance or participation; however, the Board shall waive the requirement of prior approval if illness, injury, or natural disaster prevented the individual from obtaining the prior approval.

- (6) Subject to the limitations in this Rule, continuing education credit hours may be earned by:

- (a) attendance at in-person courses or presentations;
- (b) completion of independent self-study courses;
- (c) non-interactive on-line presentations, courses or materials; or
- (d) completion of live interactive on-line presentations or courses.

- (7) One continuing education credit hour, up to 100 percent of the CE requirement for renewal, may be earned for each hour of in-person attendance at courses presented or approved by approved continuing education credit providers. Up to 25 percent of the CE requirement for renewal may be obtained from independent self-study courses, videos, DVDs, CDs, prerecorded webinars, audio conferences, and non-interactive on-line presentations approved by approved continuing education credit

providers. Up to 50 percent of the CE requirement for renewal may be obtained from live interactive on-line presentations or courses approved by approved continuing education credit providers. However, the number of credit hours earned from live interactive on-line presentations or courses shall be reduced by the number of credit hours earned from independent self-study courses or materials and non-interactive on-line presentations or courses. A live interactive on-line presentation or course shall:

- (a) include instant or asynchronous two-way communication;
- (b) provide access to both technical personnel and professional faculty, as well as interactivity among participants for the exchange of questions and answers via instant messaging or a moderated teleconference; and
- (c) document the level of participation by keeping a record of the participant's activity in asking or answering questions during the presentation and the score of any examination administered at the end or the presentation.

- (8) Each veterinarian and veterinary technician shall keep a record for the three most recent renewal periods of the content of courses submitted to the Board for continuing education credit hours.

- (9) A veterinarian licensed in the year of graduation from a veterinary medical college is not required to earn continuing education credit hours to be eligible for license renewal for the next renewal period.

- (10) A veterinary technician registered in the year of graduation from a veterinary medical technology program is not required to earn continuing education credit hours to be eligible for registration renewal for the next renewal period.

- (11) A veterinarian or veterinary technician serving in the armed forces of the United States and to whom an extension of time to file a tax return is granted pursuant to G.S. 105-249.2 is granted the same extension of time to comply with the continuing education requirement of this Rule.

*History Note: Authority G.S. 90-185(6); 90-186(1); 93B-15; Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. February 1, 2018; June 1, 2003; May 1, 1996; May 1, 1989; January 1, 1987.*

This Section contains information for the meeting of the Rules Review Commission January 19, 2018 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

March 15, 2018 April 20, 2018
May 17, 2018 June 21, 2018

AGENDA**RULES REVIEW COMMISSION****THURSDAY, MARCH 15, 2018 10:00 A.M.****1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Board of Agriculture – 02 NCAC 60B .0101, .0201, .0202, .0205, .0302, .0401, .0402, .0603, .0604, .0605, .0701, .0702, .0804, .0805, .0901, .1003, .1004, .1005, .1006, .1007, .1008, .1009, .1010, .1011, .1012, .1013, .1014, .1015, .1016, .1017, .1018, .1019, .1020, .1021, .1022, .1023, .1024, .1025, .1026, .1027, .1028, .1029, .1030, .1031, .1032; 60C .0101, .0102, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209 (Hammond)
 - B. Environmental Management Commission - 15A NCAC 02Q .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0110, .0111, .0112, .0113, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0301, .0303, .0304, .0305, .0306, .0307, .0308, .0309, .0310, .0311, .0312, .0313, .0314, .0315, .0316, .0317, .0318, .0401, .0402, .0501, .0502, .0503, .0504, .0505, .0507, .0508, .0509, .0510, .0512, .0513, .0514, .0515, .0516, .0517, .0518, .0519, .0520, .0521, .0522, .0523, .0524, .0525, .0526, .0527, .0528, .0801, .0802, .0803, .0804, .0805, .0806, .0807, .0808, .0809, .0810, .0901, .0902, .0903 (Thomas)
 - C. Licensing Board for General Contractors – 21 NCAC 12 .0204, .0503, .0504 (May)
 - D. Building Code Council - 2018 Residential Code Tables N1102.1.2 and N1102.1.4; 2018 Energy Conservation Code Tables R402.1.2 and R402.1.4 (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed January 23, 2018 through February 20, 2018
 - Pre-Reviewed Rules
 - Acupuncture Licensing Board (May)
 - Board of Barber Examiners (Reeder)
 - Board of Dental Examiners (Hammond)
 - Non Pre-Reviewed Rules
 - Banking Commission (Hammond)
 - Criminal Justice Education and Training Standards Commission (Thomas)

- Alcoholic Beverage Control Commission (Hammond)
- Alarm Systems Licensing Board (May)
- Department of Revenue (Hammond)
- Board of Chiropractic Examiners (Thomas)
- Board of Landscape Architects (May)
- Board of Examiners Of Plumbing, Heating And Fire Sprinkler Contractors (Hammond)
- State Human Resources Commission (Reeder)

V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting

VI. Existing Rules Review

- Review of Reports
 1. 07 NCAC 13A – Department of Natural and Cultural Resources (Reeder)
 2. 07 NCAC 13B - Department of Natural and Cultural Resources (Reeder)
 3. 07 NCAC 13C – Department of Natural and Cultural Resources (Reeder)
 4. 07 NCAC 13D – Department of Natural and Cultural Resources (Reeder)
 5. 07 NCAC 13F - Department of Natural and Cultural Resources (Reeder)
 6. 07 NCAC 13G - Department of Natural and Cultural Resources (Reeder)
 7. 07 NCAC 13I – Department of Natural and Cultural Resources (Reeder)
 8. 07 NCAC 13K – Department of Natural and Cultural Resources (Reeder)
 9. 21 NCAC 48 – Board of Physical Therapy Examiners (Hammond)
 10. 21 NCAC 58 - Real Estate Commission (Hammond)

VII. Commission Business

E. Periodic Review and Expiration of Existing Rules Readoption Schedule

- Next meeting: Thursday, April 19, 2018

**Commission Review
Log of Permanent Rule Filings
January 23, 2018 through February 20, 2018**

BANKING COMMISSION

The rules in Subchapter 3C concern banks including organization and chartering (.0100); branches and limited service facilities (.0200); change of location (.0300); consolidation of banks (.0400); operations (.0900); loan administration and leasing (.1000); capital (.1100); bank personnel (.1300); legal reserve (.1400); fees (.1600); nonresident banks (.1700); and courier services (.1800).

Loan Documentation
Amend*

04 NCAC 03C .1001

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission.

This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs). The rules in Subchapter 9B cover minimum standards for: employment (.0100); schools and training programs (.0200); criminal justice instructors (.0300); completion of training (.0400); school directors (.0500); and certification of post-secondary criminal justice education programs (.0600).

Minimum Standards for Criminal Justice Officers
Amend*

12 NCAC 09B .0101

Medical Examination
Amend*

12 NCAC 09B .0104

Documentation of Educational Requirements

12 NCAC 09B .0106

Amend*				
<u>Admission of Trainees</u>	12	NCAC	09B	.0203
Amend*				
<u>Training Course Enrollment</u>	12	NCAC	09B	.0204
Amend*				
<u>Basic Law Enforcement Training</u>	12	NCAC	09B	.0205
Amend*				
<u>Criminal Justice Instructor Training</u>	12	NCAC	09B	.0209
Amend*				

The rules in Subchapter 9C concern the administration of criminal justice education and training standards including responsibilities of the criminal justice standards division (.0100); forms (.0200); certification of criminal justice officers (.0300); accreditation of criminal justice schools and training courses (.0400); minimum standards for accreditation of associate of applied science degree programs incorporating basic law enforcement training (.0500); and equipment and procedures (.0600).

<u>Lateral Transfer of Law Enforcement Officers</u>	12	NCAC	09C	.0306
Amend*				

The rules in Subchapter 9E relate to the law enforcement officers' in-service training program.

<u>Annual In-Service Firearms Qualification Specifications</u>	12	NCAC	09E	.0106
Amend*				

The rules in Subchapter 9F cover concealed handgun training.

<u>Instructor Responsibilities</u>	12	NCAC	09F	.0105
Amend*				

<u>Sanctions</u>	12	NCAC	09F	.0106
Amend*				

The rules in Subchapter 9G are the standards for correction including scope, applicability and definitions (.0100); minimum standards for certification of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0200); certification of correctional officers, probation/parole officers, probation/parole officers intermediate and instructors (.0300); minimum standards for training of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0400); enforcement of rules (.0500); professional certification program (.0600); and forms (.0700).

<u>Education</u>	12	NCAC	09G	.0204
Amend*				

<u>Instructor Training</u>	12	NCAC	09G	.0414
Amend*				

ALCOHOLIC BEVERAGE CONTROL COMMISSION

The rules in Subchapter 15A concern organization rules: policies and procedures including general provisions (.0100); structure (.0200); publications, records, copies (.0300); rule-making (.0400); emergency rules (.0500); declaratory rulings (.0600); personnel policies: commission (.0700); adjudication: contested cases (.0800); fiscal rules for local boards (.0900); local ABC board: personnel policies (.1000); local ABC boards: relationship with state commission (.1100); openings and discontinuance of stores (.1200); storage and distribution of spirituous liquors: commercial transportation (.1300); purchase of alcoholic beverages by local boards (.1400); pricing of spirituous liquor (.1500); warehouse storage of spirituous liquors (.1600); retail sales of alcoholic beverages (.1700); purchase transportation permits for individuals and mixed beverages permittees (.1800); sales of liquor to mixed beverages permittees (.1900); local board training (.2000); distillery permit holders' sale of spirituous liquor distilled on premises to visitors of the distillery for consumption off the premises (.2100); and special one-time permits (.2200).

<u>Location and Address</u>	14B	NCAC	15A	.0102
Amend*				

ALARM SYSTEMS LICENSING BOARD

The rules in Chapter 17 are from the N.C. Alarm Systems Licensing Board and cover the organization and general provisions (.0100); provisions for licensees (.0200); provisions for registrants (.0300); the recovery fund (.0400); and continuing education for licensees (.0500).

<u>Renewal or Re-issue of License</u>	14B	NCAC	17	.0204
Amend*				

REVENUE, DEPARTMENT OF

The rules in Chapter 5 are from the corporate income and franchise tax division.

The rules in 5B deal with general information about the franchise tax (.0100); the form to be used in filing the franchise tax for pullman, sleeping, chair and dinner cars (.0400); the form to be used by express companies for filing the franchise tax (.0500); capital stocks surplus and individual profits base (.1100); investment in tangibles property in N.C. (.1300); appraised valuation of tangible and intangible property base (.1400); procedures when there has been a change of income year (.1500); and corporations conditionally or partially exempt (.1700).

<u>Investment In Subsidiary</u>	17	NCAC	05B	.1105
Readopt with Changes*				
<u>Exclusion Provision Limited To Indebtedness Owed</u>	17	NCAC	05B	.1108
Readopt with Changes*				
<u>Reciprocal Indebtedness Between Affiliates</u>	17	NCAC	05B	.1110
Readopt with Changes*				
<u>Investment Base Property Included</u>	17	NCAC	05B	.1406
Readopt with Changes*				

The rules in Subchapter 5C are corporate income tax rules and include corporations subject to the tax (.0100); computation of income (.0300); interest income on government obligations (.0400); income taxable in another state (.0600); business and nonbusiness income (.0700); property factor (.0800); payroll factor (.0900); sales factor (.1000); amortization of bond premiums (.1400); net economic loans carry over (.1500); partnerships and the corporate partner (.1700); computing taxable percentages on dividends (.1800); filing of returns and payment of taxes (.1900); extension of time for filing return (.2000); dissolutions and withdrawals (.2100); domestic international sales corporation (.2400); and reinstatement of corporate charter (.2600).

<u>Domestic And Foreign Corporations Required To File</u>	17	NCAC	05C	.0101
Readopt with Changes*				
<u>US Obligations</u>	17	NCAC	05C	.0403
Readopt with Changes*				
<u>In General</u>	17	NCAC	05C	.0801
Readopt with Changes*				
<u>Numerator of Payroll Factor</u>	17	NCAC	05C	.0907
Readopt with Changes*				
<u>Corporations Apportioning Their Net Income</u>	17	NCAC	05C	.1506
Readopt with Changes*				
<u>Apportionable Income or Nonapportionable Income</u>	17	NCAC	05C	.1702
Readopt without Changes*				

The rules in Subchapter 5D concern declaration of income by corporations.

<u>Request for Alternative Apportionment Formula</u>	17	NCAC	05D	.0109
Readopt with Changes*				
<u>Who Shall Attend the Conference</u>	17	NCAC	05D	.0112
Readopt with Changes*				

ACUPUNCTURE LICENSING BOARD

The rules in Chapter 1 are from the North Carolina Acupuncture Licensing Board including licensure (.0100); renewal of licensure (.0200); continuing education (.0300); practice parameters and procedures (.0400); schools and colleges of acupuncture (.0500); code of ethics (.0600); and administrative procedures (.0700).

<u>Definitions</u>	21	NCAC	01	.0104
Readopt with Changes*				
<u>Renewal of Licensure</u>	21	NCAC	01	.0201
Readopt with Changes*				
<u>Standards for Continuing Education</u>	21	NCAC	01	.0301
Readopt with Changes*				
<u>Acupuncture Procedures</u>	21	NCAC	01	.0402
Readopt with Changes*				

BARBER EXAMINERS, BOARD OF

The rules in Subchapter 06L concern barber shops.

<u>Equipment</u>	21	NCAC	06L	.0103
Amend*				
<u>Systems of Grading Barber Shops and Barber Schools</u>	21	NCAC	06L	.0119
Amend*				

CHIROPRACTIC EXAMINERS, BOARD OF

The rules in Chapter 10 include organization of the Board (.0100); the practice of chiropractic (.0200); rules of unethical conduct (.0300); rule-making procedures (.0400); investigation of complaints (.0500); contested cases and hearings in contested cases (.0600-.0700); and miscellaneous provisions (.0800).

<u>Application for Licensure</u>	21	NCAC	10	.0202
Amend*				
<u>North Carolina Examination</u>	21	NCAC	10	.0203
Amend*				
<u>Renewal of License</u>	21	NCAC	10	.0205
Amend*				
<u>Certification of Radiologic Technologists</u>	21	NCAC	10	.0206
Amend*				
<u>Certification of Clinical Assistants</u>	21	NCAC	10	.0213
Amend*				

DENTAL EXAMINERS, BOARD OF

The rules in Subchapter 16G concern dental hygienists.

<u>Functions Which May Be Delegated</u>	21	NCAC	16G	.0101
Amend*				
<u>Procedures Prohibited</u>	21	NCAC	16G	.0103
Amend*				

The rules in Subchapter 16H concern dental assistants including classification and training (.0100); and permitted functions of dental assistant (.0200).

<u>Permitted Functions of Dental Assistant II</u>	21	NCAC	16H	.0203
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Amend*

<u>Specific Prohibited Functions of Dental Assistants I and II</u>	21	NCAC	16H	.0205
Amend*				

LANDSCAPE ARCHITECTS, BOARD OF

The rules in Chapter 26 are from the Board of Landscape Architects and include statutory and administrative provisions (.0100); practice rules for registered landscape architects (.0200); examination and licensing procedures (.0300); rules, petitions and hearings (.0400); and board disciplinary procedures (.0500).

<u>Authority: Name and Location of the Board</u>	21	NCAC	26	.0101
Readopt without Changes*				
<u>Organization of the Board: Officers</u>	21	NCAC	26	.0103
Readopt without Changes*				
<u>Fees</u>	21	NCAC	26	.0105
Readopt without Changes*				
<u>Board Listing of Individuals and Firm Names</u>	21	NCAC	26	.0201
Readopt without Changes*				
<u>Name of Firm</u>	21	NCAC	26	.0206
Readopt without Changes*				
<u>Application of Professional Seal</u>	21	NCAC	26	.0207
Readopt without Changes*				
<u>Unprofessional Conduct</u>	21	NCAC	26	.0209
Readopt without Changes*				
<u>Dishonest Practice</u>	21	NCAC	26	.0210
Readopt without Changes*				
<u>Incompetence</u>	21	NCAC	26	.0211
Readopt without Changes*				
<u>Examination and Licensure</u>	21	NCAC	26	.0301
Readopt without Changes*				
<u>License by Comity</u>	21	NCAC	26	.0303
Readopt without Changes*				
<u>Reinstatement After Revocation</u>	21	NCAC	26	.0306
Readopt without Changes*				
<u>Continuing Education as a Condition of Annual Renewal</u>	21	NCAC	26	.0307
Readopt without Changes*				
<u>Rule Making Procedures</u>	21	NCAC	26	.0401
Readopt without Changes*				
<u>Disciplinary Review Process</u>	21	NCAC	26	.0510
Readopt without Changes*				

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

The rules in Chapter 50 are from the Plumbing, Heating and Fire Sprinkler Contractors including rules about organization (.0100); forms (.0200); examinations (.0300); general procedures (.0400); policy statements and interpretative rules (.0500); contested cases (.1000); fees (.1100); petitions for rules (.1200); declaratory rulings (.1300); and continuing education (.1400).

<u>Applications: Issuance of License</u>	21	NCAC	50	.0306
Amend*				
<u>State and Local Government Plumbing or Heating Technician</u>	21	NCAC	50	.0312
Amend*				

STATE HUMAN RESOURCES COMMISSION

The rules in Subchapter 1J cover employee grievances (.0500); disciplinary actions including suspensions and dismissals (.0600); Governor's Award for Excellence (.0800); internal performance pay dispute resolution procedures (.0900); state employees assistance program (.1000); unlawful workplace harassment (.1100); employee grievances (.1200); employee appeals and grievance process (.1300); and employee mediation and grievance process (.1400).

<u>General Agency Grievance Procedure Requirements</u>	25	NCAC	01J	.1302
Readopt without Changes*				
<u>Back Pay</u>	25	NCAC	01J	.1306
Readopt without Changes*				
<u>Front Pay</u>	25	NCAC	01J	.1307
Readopt without Changes*				
<u>Leave</u>	25	NCAC	01J	.1308
Readopt without Changes*				
<u>Health Insurance</u>	25	NCAC	01J	.1309
Readopt without Changes*				
<u>Interest</u>	25	NCAC	01J	.1310
Readopt without Changes*				
<u>Reinstatement</u>	25	NCAC	01J	.1311
Readopt without Changes*				
<u>Causes for Reinstatement</u>	25	NCAC	01J	.1312
Readopt without Changes*				
<u>Discrimination, Harassment, or Retaliation</u>	25	NCAC	01J	.1314
Readopt without Changes*				
<u>Voluntary Programs or Benefits</u>	25	NCAC	01J	.1315
Readopt without Changes*				
<u>Remedies for Procedural Violations</u>	25	NCAC	01J	.1316
Readopt without Changes*				
<u>Certain Remedies Not Available</u>	25	NCAC	01J	.1318
Readopt without Changes*				
<u>Situations in Which Attorney's Fees May be Awarded</u>	25	NCAC	01J	.1319
Readopt without Changes*				
<u>Attorney's Fees may be Awarded as a Result of a Settlement</u>	25	NCAC	01J	.1320
Readopt without Changes*				

CONTESTED CASE DECISIONS

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Melissa Owens Lassiter
Don Overby
J. Randall May
David Sutton

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

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<u>PUBLISHED</u>			
17	DHR	08088	1/26/2018	Annie Hasan 1st Start Child Development Center	v.	NC Department of Health and Human Services, Nutrition Services, Child & Adult Care Food Program	Bawtinheimer
17	DOJ	04952	1/30/2018	Edward Robin Hudson Jr	v.	NC Sheriffs Education and Training Standards Commission	Sutton
17	EDC	04769	1/24/2018	Tulsa Scales	v.	The State Board of Education	Sutton
17	INS	01910	1/9/2018	James E Best	v.	North Carolina State Health Plan	Bawtinheimer
17	INS	05077	1/30/2018	Cindi R Harris	v.	NC State Health Plan	Culpepper
				<u>UNPUBLISHED</u>			

17	CSE	06851	1/8/2018	Anthony M Weidner	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
17	CSE	06963	1/16/2018	Michael A Bell	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
17	CSE	06974	1/8/2018	Stephani N Gadd	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
17	CSE	07034	1/9/2018	Vernon Gibbs Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe

CONTESTED CASE DECISIONS

17	CSE	07276	1/16/2018	Wanda R Anderson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
17	CSE	07373	1/8/2018	Darrell E Bauldwin	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Malherbe
17	CSE	07403	1/16/2018	Allan A Young North Carolina Child Support Enforcement	v.	North Carolina Child Support Enforcement 000759517 Case #	Sutton
17	CSE	07409	1/8/2018	Alfred I Bryan	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Malherbe
17	CSE	07462	1/16/2018	Justin Livesay	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
17	CSE	07569	1/16/2018	John C Brown	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Malherbe
17	CSE	07719	1/19/2018	Anthony Cox	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
17	CSE	07964	1/25/2018	Philip J McPoyle	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
17	CSE	08035	1/25/2018	Dwayn Moore	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
17	CSE	08039	1/31/2018	Mark A Derrick	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Malherbe
17	CSE	08092	1/30/2018	Jerome Harvey	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Sutton
17	DAG	07029	1/2/2018	Ormond's Oil & Gas	v.	NC Department of Agriculture & Consumer Services	Overby
17	DCS	04924	1/9/2018	Sherri Lynch	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
17	DHR	05833	1/31/2018	Danny Fisher	v.	Pender County Health Department Environmental Health Division	Lassiter
17	DHR	06546	1/3/2018	Lake Pointe Assisted Living Inc	v.	NC Department of Health and Human Services, Division of Health Service Regulation Adult Care Licensure Section	Lassiter
17	DHR	07299	1/22/2018	Miracle Houses Inc. Patsy Y Camp	v.	NC Department of Health and Human NCDHHS, DHSR, MHL and C	Malherbe
17	DHR	07319	1/26/2018	Miracle Houses Inc. Patsy Y Camp	v.	NCDHHS, DHSR, MHL and C	Malherbe
17	DHR	07443	1/22/2018	Options Driven	v.	NC Department of Health and Human Services, Division of Medical Assistance	Malherbe
17	DHR	07564	1/18/2018	Loree Ann Shuping	v.	Burke County DSS, IM Investigator Jessica Skipworth	Sutton

CONTESTED CASE DECISIONS

17	DOJ	03629	1/3/2018; 1/10/2018	Michael Earnest Moore	v.	NC Private Protective Services Board	Overby
17	DOJ	04720	1/3/2018; 1/10/2018	Alexander Samuel Smith	v.	NC Private Protective Services Board	Overby
17	DOJ	06274	1/12/2018	Kenneth Sinatra Whittington Jr.	v.	NC Sheriffs Education and Training Standards Commission	Sutton
17	DOJ	07441	1/16/2018	Timothy Michael Johnson	v.	NC Criminal Justice Education and Training Standards Commission	Sutton
17	DOJ	07611	1/10/2018	Jamie Rae Miller	v.	NC Private Protective Services Board	Overby
17	OSP	00062	1/22/2018	Amy W Crumpler	v.	Appalachian State University	Malherbe
17	OSP	07557	1/9/2018	Anthony Reeves	v.	DHHS	Ward
17	OSP	08257	1/19/2018	Alicia Marie Lopez	v.	NC Department of Transportation	Ward
17	OSP	08267	1/3/2018	Monica Adams	v.	Eastpointe LME/MCO, and Lynn Parrish, HR Director	Ward