

# ***NORTH CAROLINA REGISTER***

**VOLUME 33 • ISSUE 02 • Pages 84 – 132**

**July 16, 2018**

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**PUBLISHED BY**

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

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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 <sup>th</sup> 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
32:22	05/15/18	04/24/18	05/30/18	07/16/18	07/20/18	08/16/18	09/01/18	01/2019	02/09/19
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
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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.

**Note from the Codifier:** The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

**TITLE 02 – DEPARTMENT OF AGRICULTURE AND  
CONSUMER SERVICES**

**Notice** is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Board of Agriculture and the Commissioner of Agriculture intend to adopt the rule cited as 02 NCAC 09B .0135, amend the rules cited as 02 NCAC 09B .0116; 37 .0203; 60B .0701, and readopt with substantive changes the rules cited as 02 NCAC 58 .0105-.0108.

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm>

**Proposed Effective Date:** November 1, 2018

**Instructions on How to Demand a Public Hearing:** (must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than July 31, 2018 to Tina Hlabse, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001. Please include in the request your name, address, and telephone number.

**Reason for Proposed Action:**

**02 NCAC 09B .0135** is being proposed for adoption to make applicable Subpart B of 21 C.F.R. Part 117, the current good manufacturing practices for human foods ("CGMP") applicable to retail food establishments. The North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") currently inspects retail food establishments under 21 C.F.R. Part 110's CGMP. However, 21 C.F.R. Part 110 will expire on September 17, 2018. 21 C.F.R. Part 117 is a continuation of 21 C.F.R. Part 110.

**02 NCAC 09B .0116** is proposed to be amended to adopt and incorporate by reference 21 C.F.R. Part 507 and the definition for "animal feed" as found under 21 U.S.C. 321(w). 21 C.F.R. Part 507 establishes science based preventative control standards for animal food and was promulgated by the United States Food and Drug Administration in accordance with the Food Safety Modernization Act. NCDA&CS is proposing to adopt and incorporate by reference the regulation and the definition of animal feed to ensure North Carolina's standards are on par with federal regulations. In addition, NCDA&CS is proposing to update the citations for existing adopted federal regulations.

**02 NCAC 37 .0203** is proposed to be amended to add an out-of-state surcharge of \$10.00 per sample for nematode advisory services. It also proposes to increase to \$20.00 the fee for Nematode species identification by molecular diagnosis.

**02 NCAC 58 .0105-.0108** are currently being readopted with substantive changes as they have gone through the Periodic Review and Expiration of Existing Rules process and were

classified as "necessary with substantive public interest." The proposed amendments reduce the number of copies for grant applications, moves from paper applications to electronic, clarifies restrictions on the use of funding, clarifies reporting requirements, and modifies record-keeping requirements.

**02 NCAC 60B .0701** is proposed to be amended to give the agency the ability to better manage applicant requests and ensure effective allocation of limited funds.

**Comments may be submitted to:** Tina Hlabse, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001; email [tina.hlabse@ncagr.gov](mailto:tina.hlabse@ncagr.gov)

**Comment period ends:** September 14, 2018

**Procedure for Subjecting a Proposed Rule to Legislative**

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

**Fiscal impact (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4
- ☐ No fiscal note required by G.S. 150B-21.3A(d)(2)

**CHAPTER 09 - FOOD AND DRUG PROTECTION**

**SUBCHAPTER 09B - RULES AND STANDARDS  
ADOPTED BY REFERENCE**

**02 NCAC 09B .0116 ADOPTIONS BY REFERENCE**

(a) The Board incorporates by reference, including subsequent amendments and editions, "Official Methods of Analysis of AOAC," published by the Association of Official Analytical Chemists. Copies of this document may be obtained from the

Association of Official Analytical Chemists International, Department 0742, 1970 Chain Bridge Road, McLean, VA 22109-0742, at a cost of ~~six~~ seven hundred thirty dollars (~~\$630.00~~). (\$730.00).

(b) The Board incorporates by reference, including subsequent amendments and editions, "U.S. Pharmacopeia National Formulary USP XXXIII-NFXXVIII" and supplements, published by the U.S. Pharmacopeial Convention, Inc. Copies of this document may be obtained from The United States Pharmacopeial Convention, Inc., Attention: Customer Service, 12601 Twinbrook Parkway, Rockville, MD 20852, at a cost of eight-hundred fifty dollars (\$850.00).

(c) The Board incorporates by reference, including subsequent amendments and editions, ~~"ASTM Standards on Engine Coolants,"~~ "ASTM Volume 15.05 Engine Coolants and Related Fluids; Halogenated Organic Solvents and Fire Extinguishing Agents," published by ASTM International. Copies of this document may be obtained from ASTM International, 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959, or by visiting <https://www.astm.org/BOOKSTORE/BOS/1505.htm> at a cost of ~~two hundred eleven dollars (\$211.00);~~ one hundred ninety dollars (\$190.00).

(d) The Board incorporates by reference, including subsequent amendments and editions, "EPA Manual of Chemical Methods for Pesticides and Devices" and supplements, published by AOAC. Copies of this document may be obtained online at no cost from the Environmental Protection Agency National Service Center for Environmental Publications at <http://nepis.epa.gov/EXE/ZyPURL.cgi?Dockey=2000YS3Y.txt>.

(e) The Board incorporates by reference, including subsequent amendments and editions, "Pesticide Analytical Manual," Volumes I and II, published by the United States Department of Health and Human Services, Food and Drug Administration. Copies of this document may be obtained online at no cost at <http://www.fda.gov/Food/ScienceResearch/LaboratoryMethods/PesticideAnalysisManualPAM/default.htm>.

(f) The Board incorporates by reference, including subsequent amendments and editions, "FDA Compliance Policy Guides," published by the United States Department of Health and Human Services, Food and Drug Administration. Copies of this document may be obtained online at no cost at <http://www.fda.gov/iceci/compliancemanuals/compliancepolicyguidancemanual/default.htm> or from the State Information Branch (HFC-151), Division of Federal-State Relations, US Food and Drug Administration, 5600 Fishers Lane, Room 12-07, Rockville, MD 20857.

(g) The Board incorporates by reference, including subsequent amendments and editions, "Bergey's Manual of Determinative Bacteriology," Lippincott, Williams & Wilkins Company, Baltimore. Copies of this document may be obtained from the Lippincott, Williams & Wilkins Company, P.O. Box 1620, Hagerstown, MD 21741 at a cost of ~~of one hundred thirty seven dollars and ninety nine cents (\$137.99);~~ one hundred forty five dollars and ninety nine cents (\$145.99).

(h) The Board incorporates by reference, including subsequent amendments and editions, "Microbiology Laboratory Guidebook," published by the United States Department of Agriculture, Food Safety and Inspection Service, Washington,

DC. Copies of this document may be obtained online at no cost from ~~[http://www.fsis.usda.gov/science/microbiological\\_Lab\\_Guidebook/](http://www.fsis.usda.gov/science/microbiological_Lab_Guidebook/)~~ at no charge. <http://www.fsis.usda.gov>.

(i) The Board incorporates by reference, including subsequent amendments and editions, "FDA Bacteriological Analytical Manual," published by the United States Department of Health and Human Services, Food and Drug Administration. Copies of this document may be obtained online at <http://www.fda.gov/Food/FoodScienceResearch/LaboratoryMethods/ucm114664.htm> at no charge.

(j) The Board incorporates by reference, including subsequent amendments and editions, "Standard Methods for the Examination of Dairy Products," published by the American Public Health Association. Copies of this document may be obtained from the American Public Health Association Publication Sales, P.O. Box 933019, Atlanta, GA at a cost of ~~eighty five dollars (\$85.00);~~ eighty-five dollars and fifty cents (\$87.50) for members and one hundred twenty-five dollars (\$125.00) for non-members.

(k) The Board incorporates by reference, including subsequent amendments and editions, "Compendium of Methods for the Microbiological Examination of Foods," published by the American Public Health Association. Copies of this document may be obtained from the American Public Health Association Publication Sales, P.O. Box 933019, Atlanta, GA at a cost of ~~one hundred fifty dollars (\$150.00);~~ one hundred forty seven dollars and fifty cents (\$147.50).

(l) The Board incorporates by reference, including subsequent amendments and editions, "Bergey's Manual of Systematic Bacteriology," Springer Publishing, New York, NY. Copies of this document may be obtained from Springer Publishing, 233 Spring Street, New York, NY, 10013 at a cost of one hundred fifty-nine dollars (\$159.00).

(m) The Board incorporates by reference, including subsequent amendments and editions, "Manual of Clinical Microbiology," published by the American Society for Microbiology. Copies of this document may be obtained from the American Society for Microbiology Press, PO Box 605, Herndon, VA 22070, at a cost of two hundred sixty-nine dollars and ninety-five cents (\$269.95).

(n) The Board incorporates by reference, including subsequent amendments and editions, "Standard Methods for the Examination of Water and Waste Water," published by American Public Health Association, American Water Works Association, and Water Pollution Control Federation. Copies of this document may be obtained from the American Public Health Association Publication Sales, P.O. Box 933019, Atlanta, GA at a cost of two hundred ninety-five dollars (\$295.00).

(o) The Board incorporates by reference, including subsequent amendments and editions, the following parts or sections of the Code of Federal Regulations, Title 21, Chapter I, as promulgated by the Commissioner of the Food and Drug Administration under the authority of the Federal Food, Drug, and Cosmetic Act:

	Part or	Section	Description of Part or Section
(1)	1.1	General	
(2)	1.3	<del>Labeling</del> Definitions	
(3)	1.20	Presence of Mandatory Label Information	

- |      |       |  |      |     |   |
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| (5)  | 1.24  | Exemptions from Required Label Statements  | (38) | 81  | General Specifications and General Restrictions for <del>Provisioned</del> <u>Provisional</u> Color Additives for Use in Foods, <del>Drugs</del> <u>Drugs</u> , and Cosmetics                                   |
| (6)  | 1.326 | Who is Subject to this Subpart?  | (39) | 82  | Listing of Certified Provisionally Listed Colors and Specifications   |
| (7)  | 1.327 | Who is Excluded from All or Part of the Regulations in this Subpart?   | (40) | 100 | General   |
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| (9)  | 1.329 | Do Other Statutory Provisions and Regulations Apply?   | (42) | 102 | Common or Usual Name for Nonstandardized Foods  |
| (10) | 1.330 | Can Existing Records Satisfy the Requirements of this Subpart?   | (43) | 104 | Nutritional Quality Guidelines for Foods  |
| (11) | 1.337 | What Information Must Non-transporters Establish and Maintain to Identify the Nontransporter and Transporter Immediate Previous Sources of Food?                                       | (44) | 105 | Foods for Special Dietary Use   |
| (12) | 1.345 | What Information Must <del>Non-transporters</del> <u>Nontransporter</u> Establish and Maintain to Identify the Nontransporter and Transporter Immediate Subsequent Recipients of Food? | (45) | 106 | Infant Formula <del>Quality—Control</del> <u>Procedures Requirements Pertaining to Current Good Manufacturing Practice, Quality Control Procedures, Quality Factors, Records and Reports, and Notifications</u> |
| (13) | 1.352 | What Information Must Transporters Establish and Maintain?   | (46) | 107 | Infant Formula  |
| (14) | 1.360 | What are the Record Retention Requirements?  | (47) | 108 | Emergency Permit Control  |
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| (18) | 1.368 | What are the Compliance Dates for this Subpart?  | (51) | 112 | Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption  |
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| (20) | 2.35  | Use of Secondhand Containers for the Shipment or Storage of Food and Animal Feed   | (53) | 114 | Acidified Foods   |
| (21) | 7.1   | Scope  | (54) | 115 | Shell Eggs  |
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(77)	164	Tree Nut and Peanut Products	(115)	332	Antiflatulent Products for Over-the-Counter Human Use
(78)	165	Beverages	(116)	361	Prescription Drugs for Human Use Generally Recognized as Safe and Effective and Not Misbranded: Drugs Used in Research
(79)	166	Margarine	(117)	369	Interpretive Statements Re: Warnings on Drugs and Devices for Over-the-Counter Sale
(80)	168	Sweeteners and Table Syrups	(118)	809	In Vitro Diagnostic Products for Human Use
(81)	169	Food Dressings and Flavorings	(119)	812	Investigational Device Exemptions
(82)	170	Food Additives	(120)	820	Quality System Regulation
(83)	172	Food Additives Permitted for Direct Addition to Food for Human Consumption	(121)	860	Medical Device Classification Procedures
(84)	173	Secondary Direct Food Additives Permitted in Food for Human Consumption	(122)	861	Procedures for Performance Standards Development
(85)	174	Indirect Food Additives: General	(123)	870	Cardiovascular Devices
(86)	175	Indirect Food Additives: Adhesives and Components of Coatings	(124)	882	Neurological Devices
(87)	176	Indirect Food Additives: Paper and Paperboard Components	(125)	884	Obstetrical and Gynecological Devices
(88)	177	Indirect Food Additives: Indirect Food Additives: Polymers	(126)	895	Banned Devices
(89)	178	Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers	(127)	500	General
(90)	179	Irradiation in the Production, Processing and Handling of Food	(128)	501	Animal Food Labeling
(91)	180	Food Additives Permitted in Food or in Contact with Food on an Interim Basis Pending Additional Study	(129)	502	Common or Usual Names for Nonstandardized Animal Foods
(92)	181	Prior-Sanctioned Food Ingredients	(130)	507	<u>Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals</u>
(93)	182	Substances Generally Recognized as Safe	<del>(130)</del> (131)	509	Unavoidable Contaminants in Animal Food and Food-Packaging Material
(94)	184	Direct Food Substances Affirmed as Generally Recognized as Safe	<del>(131)</del> (132)	510	New Animal Drugs
(95)	186	Indirect Food Substances Affirmed as Generally Recognized as Safe	<del>(132)</del> (133)	511	New Animal Drugs for Investigational Use
(96)	189	Substances Prohibited from Use in Human Food	<del>(133)</del> (134)	514	New Animal Drug Applications
(97)	190	Dietary Supplements	<del>(134)</del> (135)	520	Oral Dosage Form New Animal Drugs
(98)	200	General	<del>(135)</del> (136)	522	Implantation or Injectable Dosage Form New Animal Drugs
(99)	201	Labeling	<del>(136)</del> (137)	524	Ophthalmic and Topical Dosage Form New Animal Drugs
(100)	202	Prescription Drug Advertising	<del>(137)</del> (138)	526	Intramammary Dosage Form New Animal Drugs
(101)	210	Current Good Manufacturing Practice in Manufacturing, Processing, Packing or Holding of Drugs; General	<del>(138)</del> (139)	529	Certain Other Dosage Form New Animal Drugs
(102)	211	Current Good Manufacturing Practice for Finished Pharmaceuticals			
(103)	225	Current Good Manufacturing Practice for Medicated Feeds			
(104)	226	Current Good Manufacturing Practice for Type A Medicated Articles			
(105)	250	Special Requirements for Specific Human Drugs			
(106)	290	Controlled Drugs			



<del>(139)</del> (140)	556	Tolerances for Residues of New Animal Drugs in Food
<del>(140)</del> (141)	558	New Animal Drugs for Use in Animal Feeds
<del>(141)</del> (142)	570	Food Additives
<del>(142)</del> (143)	573	Food Additives Permitted in Feed and Drinking Water of Animals
<del>(143)</del> (144)	582	Substances Generally Recognized as Safe
<del>(144)</del> (145)	584	Food Substances Affirmed as Generally Recognized as Safe in Feed and Drinking Water of Animals
<del>(145)</del> (146)	589	Substances Prohibited from Use in Animal Food or Feed
<del>(146)</del> (147)	700	General
<del>(147)</del> (148)	701	Cosmetic Labeling
<del>(148)</del> (149)	720	Voluntary Filing of Cosmetic Product Ingredient Composition Statements
<del>(149)</del> (150)	740	Cosmetic Product Warning Statements

Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(p) The Board incorporates by reference, including subsequent amendments and editions, "Tolerances and Exemptions ~~from Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities,~~ for Pesticide Chemical Residues in Food," 40 C.F.R. Part 180. Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(q) The Board incorporates by reference, including subsequent amendments and editions, "Definitions and Standards of Identity or ~~Composition for Meats, Meat By products, and Meat Food Products,~~ Composition," 9 C.F.R. Part 319. Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(r) The Board incorporates by reference, including subsequent amendments and editions, "Definitions and Standards of Identity or ~~Composition for Poultry and Poultry Products,~~ Composition," 9 C.F.R. Sections 381.155 through 381.170. Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(s) The Board incorporates by reference, including subsequent amendments and editions, "Labels: Definitions; Required Features," ~~Title 9, 9 C.F.R. Part 317.2(1)~~ Section 317.2 of the Code of Federal Regulations. Copies of Title 9 of the Code of Federal Regulations may be obtained ~~from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, at a cost of sixty-four dollars (\$64.00);~~ at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(t) The Board incorporates by reference, including subsequent amendments and editions, "Special Handling Label Requirements," ~~Title 9, 9 C.F.R. Part 381.125(b)~~ Section 381.125

of the Code of Federal Regulations. Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(u) The Board incorporates by reference, including subsequent amendments and editions, a document entitled, "Fresh Air '2000' - A Look At FDA's Medical Gas Requirements," published by the United States Department of Health and Human Services, Food and Drug Administration. A copy of this material may be obtained at no cost from the Food and Drug Protection Division of the North Carolina Department of Agriculture and Consumer Services.

(v) The Board incorporates by ~~reference~~ reference, including subsequent amendments and editions, the definition of "dietary supplement" found at 21 USC 321(ff).

(w) The Board incorporates by ~~reference~~ reference, including subsequent amendments and editions, the definition of "processed food" found at 21 USC 321(gg).

(x) The Board incorporates by ~~reference~~ reference, including subsequent amendments and editions, the definition of "major food allergen" found at 21 USC 321(qq).

(y) The Board incorporates by ~~reference~~ reference, including subsequent amendments and editions, the definition of "knowingly" or "knew" found at 21 USC 321(bb).

(z) The Board incorporates by reference, including subsequent amendments and editions, the definition of "animal feed" found at 21 USC 321(w).

*Authority G.S. 106-139; 106-245.16; 106-245.22; 106-245.32; 106-267.*

## **02 NCAC 09B .0135 CURRENT GOOD MANUFACTURING PRACTICES FOR RETAIL FOOD ESTABLISHMENTS**

Subpart B of 21 C.F.R. Part 117, as incorporated by reference pursuant to Rule .0116(o)(55) of this Subchapter, shall apply to "retail food establishments" as defined by 21 C.F.R. 1.227, and shall include bakeries, retail food outlets, and seafood markets.

*Authority G.S. 106-139.*

## **CHAPTER 37 - AGRONOMIC SERVICES**

### **SECTION .0200 - PROGRAMS**

#### **02 NCAC 37 .0203 NEMATODE ADVISORY SERVICE**

(a) Individuals desiring nematode analysis may obtain sample containers and instructions from the Agronomic Services Division, county extension office, farm supply dealers, Agronomic Division Regional Agronomists, or other local agricultural advisors. If plant-destructive nematodes are found, the best method of control will be recommended.

(b) Fees Per sample fees for those services, to be paid at the time of submission, are as follows:

- (1) Routine nematode assay - \$3.00.
- ~~(2) Nonresident nematode assay - \$10.00.~~
- ~~(3)~~(2) Research nematode assay - \$10.00.
- ~~(4)~~(3) Pinewood nematode assay - \$10.00.

- ~~(5)(4)~~ Nematode species identification by molecular diagnosis - ~~\$10.00~~ \$20.00.
- (5) Out-of-state surcharge - \$10.00

Authority G.S. 106-22(17).

## **CHAPTER 58 - AGRICULTURAL DEVELOPMENT AND FARMLAND PRESERVATION TRUST FUND**

### **SECTION .0100 - GENERAL PROVISIONS**

#### **02 NCAC 58 .0105 EVALUATION OF APPLICATIONS**

~~(a) Applicants for funding from the ADFPTF shall submit two unbound complete applications suitable for photocopying. Applications must be sent by Fed Ex, UPS, certified mail, or hand delivered to: NCDA&CS, NCADFP Trust Fund at 2 West Edenton Street, Raleigh, NC 27601.~~

~~(b) Two separate applications are online at <http://www.ncadfp.org/> or available from the Department as noted in Paragraphs (c) and (d) of this Rule.~~

(a) Applicants for funding from the ADFPTF shall submit a completed application.

(b) Applications and instructions shall be available online at <http://www.ncadfp.org/>.

(c) To be eligible for consideration for funding for agricultural conservation easements or agricultural agreements, applicants shall complete the Agricultural Development and Farmland Preservation Application Form for Conservation Easements and Agricultural Agreements which contain the following information:

- (1) identifying information;
- (2) a description of the type of organization of the applicant;
- (3) project affiliations, matching funds, and partnerships;
- (4) whether funds are for an agricultural conservation easement or an agricultural agreement and the term years;
- (5) current land value assessment, requested amount of funds, estimated easement value, project completion date;
- (6) operation management plans;
- (7) values relevant to the easement;
- (8) agricultural, horticultural, or forestry property inventory;
- (9) what transition plans are in place to continue operations for the future;
- (10) threats of conversion;
- (11) conservation and environmental concerns; and
- (12) listed attachments.

(d) To be eligible for consideration for funding for agricultural development programs, applicants shall complete the Agricultural Development and Farmland Preservation Application Form for Public and Private Enterprise Programs, which contain the following information:

- (1) identifying information;
- (2) a description of the type of organization of the applicant;

- (3) project affiliations, matching funds, and partnerships;
- (4) a description of goals, target audience, and success measurements; and
- (5) listed attachments.

(e) Each completed application shall be evaluated by the staff based on the information provided in the application and in accordance with the ADFPTF criteria described in this Rule.

(f) The staff shall review all applications for completeness. If an application is incomplete after the application deadline, the applicant may be asked to reapply for the next grant cycle, which will be publicly announced by the Commissioner on an annual basis.

(g) During the review and evaluation of proposals, the staff shall report to the Commissioner on any site visits that may be required for full consideration of the grant proposal.

(h) The Advisory Committee shall review the project evaluations and other relevant data prepared by the applicant and by ADFPTF staff. The Advisory Committee shall make recommendations to the Commissioner on projects for funding.

(i) The Commissioner and Advisory Committee shall consider the relative needs of the farmland preservation project and determine the proportion of available funds to be allocated for each eligible project.

(j) Grants shall be awarded contingent on the availability of sufficient funds to do so. Funds shall be conveyed to grantees through contracts with the Trust Fund. If the Commissioner determines that grant funds are not being used for the purpose for which they were awarded, the Trust Fund may cease making payments under the grant schedule until the problem has been resolved or may demand immediate return of any unspent money and interest from the grant. Grantees must reimburse the Trust Fund any funds that are determined to have not been spent for the purpose for which they were granted. Grantees must return any grant money which remains unspent at the conclusion of the grant project, with any interest earned on grant money.

(k) The following general criteria shall be used to evaluate conservation easement or agricultural agreement projects only:

- (1) parcel information;
- (2) planning for the future; and
- (3) site visits.

(l) The following general criteria shall be used to evaluate agricultural development programs only:

- (1) project description;
- (2) project implementation; and
- (3) applicant interview.

(m) The Commissioner and Advisory Committee shall also consider the following factors when evaluating projects:

- (1) the geographic distribution of projects;
- (2) the presence or absence of other funding sources;
- (3) the level of compliance with prior grant agreements;
- (4) the amount of funds available;
- (5) the amount of funds requested;
- (6) priority funding map; and
- (7) other relevant information in the application.

Authority G.S. 106-744.

**02 NCAC 58 .0106 GRANT AGREEMENT**

- (a) Upon approval, a written agreement shall be executed between the grant recipient(s) and the Commissioner.
- (b) The agreement shall define the Commissioner's and grant recipient's responsibilities and obligations, the project period, project scope and the amount of grant assistance.
- (c) The approved application and support documentation shall become a part of the grant agreement.
- (d) The grant agreement may be amended upon mutual consent and approval by the Commissioner and the grant recipient(s). The grant recipient(s) shall submit a written request to the Commissioner.
- (e) Projects Grant payments shall be made only for activities within the grant contract period and projects may not begin until the Commissioner and grant recipient(s) sign the agreement.
- (f) The agreement shall include a requirement that, in any agricultural conservation easement funded by the ADFPTF, the State of North Carolina shall have the right to enforce the easement if the grantee of the easement fails to do so.
- (g) Grantees shall abide by the ADFPTF Monitoring Policies and Guidelines.

*Authority G.S. 106-744.*

**02 NCAC 58 .0107 REPORTING**

- (a) Grant recipients shall submit written progress reports ~~at six-month intervals or upon~~ biannually for grants less than five hundred thousand dollars (\$500,000) and quarterly for grants more than five hundred thousand dollars (\$500,000) until completion of the project, whichever is sooner. Written reports shall describe the status of the project, progress toward achieving program objectives, notable occurrences and any problems encountered and steps taken to overcome the problems. Upon completion of the project, the successful applicant must make a final written report to the Commissioner which shall include project accomplishments and benefits, all expenditures by line item as established in the project budget, and verification of the number of hours or money in matching funds.
- (b) The staff shall review the progress reports for completeness, which shall include a showing of how the project is meeting its stated goals and performance standards. If the staff finds that the report is deficient in showing how the project is meeting its stated goals and performance standards, the grantee shall be notified of the deficiency and must provide a changed and corrected report within 30 working days. If a corrected or changed report is not received within 30 working days, the Trust Fund may withhold the next grant payment.
- (c) Grantees shall submit monitoring reports in accordance with the ADFPTF Monitoring Policies and Guidelines.

*Authority G.S. 106-744.*

**02 NCAC 58 .0108 RECORDS**

Successful applicants must keep financial and other records of the project for a period of ~~three~~ five years, following completion of the project, or until audited. The records shall be made available to the Commissioner at his request. Recipients shall contact Trust Fund staff at the North Carolina Department of Agriculture and Consumer Services before destroying records or in the event that

records are destroyed. The Trust Fund shall maintain and dispose of paper and electronic records in accordance with the approved Functional Schedule for North Carolina State Agencies, Program Record Retention and Disposition Schedule and Electronic Records and Imaging Policy.

*Authority G.S. 106-744.*

**CHAPTER 60 - DIVISION OF FOREST RESOURCES**

**SUBCHAPTER 60B - DIVISION PROGRAMS**

**SECTION .0700 – FOREST DEVELOPMENT PROGRAM**

**02 NCAC 60B .0701 ADMINISTRATION OF PROGRAM**

(a) The manner and requirements of making application for cost sharing funds pursuant to the Forest Development Act are as follows:

- (1) Any eligible landowner may apply for program cost sharing funds.
- (2) Application may be made by completing the application forms furnished process as outlined by the ~~Division and returning it to one of the field offices of the Division.~~ Division. ~~An approved forest~~ A management plan relating to the application shall be on file with the North Carolina Forest Service before the application may be accepted. ~~Applications shall include identifying information from the landowner and consultant, a description of the practices needed, acres needed, prevailing rate, and a performance report.~~

(b) The Commissioner or his or her designee shall ~~review~~ approve completed ~~applications.~~ applications for funding consideration. ~~Funds shall be allocated from the Forest Development Fund to the landowner for cost sharing on a "first come, first served" basis, determined by the date of receipt of the application in the North Carolina Forest Service office in Raleigh, and until all available funds are encumbered.~~ Applicants who start or complete their project without prior Division approval shall not be eligible to receive funding.

(c) ~~At the beginning of each fiscal year, the~~ The Commissioner may designate a portion of funds for practices designed to encourage reforestation at reduced costs or for other special purposes in designated areas. ~~The designations shall be for the current fiscal year only. Funds may be designated for a "Plant Only" allocation and for a "Mountain Area" allocation. The amount of these allocations shall be based on the prior year's demand for these allocations, however, any increase of these allocations shall not exceed 50% of the previous year's allocation. The determination to designate special funds and allocated amounts by the Commissioner shall be made in writing not less than three months prior to beginning of the fiscal year for which funds are designated.~~

~~(d) Funds shall be allocated for replanting previously approved projects, when planting failure is the result of environmental or other conditions beyond the control of the landowner. Requests~~

~~for replanting shall be made in the same manner as new requests and shall be approved in the order received.~~

~~(e)(d)~~ G.S. 106-1016 limits a landowner to 100 acres of cost share funding approval per fiscal year. Cost share paid out in any one fiscal year may include funds approved in previous fiscal years.

~~(f)(e)~~ ~~Cost Sharing Payment to Landowner.~~ Cost-sharing payments shall be made upon certification by the Division of ~~following~~ satisfactory completion of the practice(s) as prescribed in the management plan. Determination of satisfactory completion shall include an assessment of the proper use of approved practices in relation to the silvicultural need of land, installation of appropriate best management practices to insure soil protection and water quality, and assurance that the installed practice is in compliance with any environmental regulations found in Article 4, G.S. 113A.

~~(g)(f)~~ ~~Withdrawal of Allotted Funds~~ Allocated funding for approved applications shall be withdrawn as follows:

- (1) ~~Funds allocated to an eligible landowner~~ may be withdrawn at the end of the first fiscal year ~~following the year~~ in which the funds were allotted if no work has been started. The landowner shall provide ~~sufficient~~ documentation to the Division for funds availability to ~~extend~~ continue into a second year.
- (2) Funds allocated may be withdrawn at the end of the second fiscal year ~~following the year of allocation~~ if the ~~practice has~~ practices have not been completed.
- (3) ~~Funds paid as "partial payment" must be repaid to the Forest Development Fund if the project is started but not completed within the allotted time.~~
- ~~(4)(3)~~ ~~Extensions.~~ A 12-month extension may be granted by the Division if the project cannot be completed due to adverse natural causes or unavailability of contractors to conduct practices.

(g) Eligible landowners may appeal disagreements, disapproval of applications, or decisions on unsatisfactory completion of silvicultural or environmental practices.

*Authority G.S. 106-22; 106-1010; 106-1011; 106-1015; 106-1018.*

## TITLE 12 – DEPARTMENT OF JUSTICE

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Sheriffs' Education and Training Standards Commission intends to adopt the rule cited as 12 NCAC 10B .0510 and amend the rules cited as 12 NCAC 10B .0302, .0505, and .2005.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<http://ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Sheriffs-Education-and-Training-Standards/All-Commission-Forms-and-Publications.aspx>

**Proposed Effective Date:** *January 1, 2019*

### **Public Hearing:**

**Date:** *August 1, 2018*

**Time:** *10:00 a.m.*

**Location:** *1700 Tryon Park Drive, Raleigh, NC 27610*

### **Reason for Proposed Action:**

**12 NCAC 10B .0302(d):** *Provides clarification regarding acceptance of high school diplomas earned through on-line or correspondence courses.*

**12 NCAC 10B .0302(e):** *Provides for acceptance of high school equivalency diplomas (in addition to GED).*

**12 NCAC 10B .0505:** *All Deputy Sheriffs who completed a BLET course after October 1, 1984 that did not include the 34 hours Sheriffs' Specific Topics (Civil Process, Detention Duties and Court Duties) must successfully complete those topics. This change is in response to a proposed change in the Criminal Justice rules (12 NCAC 09C) which will allow training providers to remove the Sheriffs' Specific Unit from the curriculum beginning in 2019.*

**12 NCAC 10B .2005:** *Sets out the annual in-service training topics for 2019.*

**12 NCAC 10B .0510:** *Sets out training requirements for School Resource Officers.*

**Comments may be submitted to:** *Diane N. Konopka, Post Office Box 629, Raleigh, NC 27602; email [dkonopka@ncdoj.gov](mailto:dkonopka@ncdoj.gov)*

**Comment period ends:** *September 14, 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** *12 NCAC 10B .2005*
- ☐ **Environmental permitting of DOT affected**
- ☒ **Analysis submitted to Board of Transportation**
- ☒ **Local funds affected** *12 NCAC 10B .2005*
- ☒ **Substantial economic impact (≥\$1,000,000)** *12 NCAC 10B .2005*
- ☒ **Approved by OSBM** *12 NCAC 10B .2005*
- ☒ **No fiscal note required by G.S. 150B-21.4** *12 NCAC 10B .0302, .0505, and .0510*

## CHAPTER 10 - SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

**SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

**SECTION .0300 – MINIMUM STANDARDS FOR EMPLOYMENT AND CERTIFICATION AS A JUSTICE OFFICER**

**12 NCAC 10B .0302 DOCUMENTATION OF EDUCATIONAL REQUIREMENT**

(a) Each applicant for Justice Officer certification shall furnish documentary evidence of high school, college or university graduation to the employing agency. Documentary evidence of high school graduation consists of diplomas or transcripts from public schools or private schools which meet standards adopted by either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction, or a comparable out of state agency. Documentary evidence of college or university graduation consists of diplomas or transcripts from colleges or universities accredited as such by the Department of Education of the state in which the institution is located, an accredited body recognized by either the U.S. Department of Education or Council for Higher Education Accreditation, or the state university of the state in which the institution is located.

(b) High School Diplomas earned through home school programs must be accompanied by a true and accurate or certified transcript and must meet the requirements of Part 3 of Article 39 of Chapter 115C of the North Carolina General Statutes, or a comparable out-of-state statute.

(c) Diplomas earned from High Schools outside of the United States must be translated into English and be accompanied by an authentic transcript. Transcripts reflecting curriculum requirements not scholastically comparable to those in the United States are not acceptable.

(d) High School diplomas earned through on-line or correspondence courses ~~courses, from an entity that charges a fee and requires the student to complete little or no education or coursework to obtain a high school diploma,~~ are not recognized toward the minimum educational requirements.

(e) Documentary evidence of having ~~passed the General Educational Development Test (GED)~~ earned a High School Equivalency (HSE) Diploma shall be satisfied by a certified copy of ~~GED test results or by a copy of the applicant's GED diploma,~~ a nationally recognized high school equivalency credential from the issuing state.

(f) Documentary evidence of the attainment of satisfactory scores on any military high school equivalency examination is acceptable as evidence of high school graduation if verified by a true copy of the veteran's DD214.

*Authority G.S. 17E-4.*

**SECTION .0500 - MINIMUM STANDARDS OF TRAINING FOR DEPUTY SHERIFFS**

**12 NCAC 10B .0505 EVALUATION FOR TRAINING WAIVER**

The Division staff shall evaluate each deputy's training and experience to determine if equivalent training has been satisfactorily completed as specified in 12 NCAC 10B .0504(a).

The following rules shall be used by Division staff in evaluating an applicant's training and experience to determine eligibility for a waiver of training.

- (1) Persons who separated from a sworn law enforcement position during their probationary period after having completed a commission-certified Basic Law Enforcement Training Course and who have been separated from a sworn law enforcement position for one year or less shall serve the remainder of the initial probationary period in accordance with G.S. 17E-7(b), but need not complete an additional training program.
- (2) Persons who separated from a sworn law enforcement position during their probationary period without having completed Basic Law Enforcement Training, or whose certification was suspended pursuant to 12 NCAC 10B .0204(b)(1), and who have remained separated or suspended for over one year shall complete a commission-certified Basic Law Enforcement Training Course in its entirety and pass the State Comprehensive Examination, and shall be allowed a 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).
- (3) Persons transferring to a Sheriff's Office from another law enforcement agency who held certification and who have previously completed a commission-certified Basic Law Enforcement Training Course beginning on or after October 1, 1984, ~~and continuing to July 1, 2000~~ and who have been separated from a sworn law enforcement position for no more than one year or who have had no break in service shall complete the following enumerated topics of a commission-certified Basic Law Enforcement Training Course and pass that portion of the State Comprehensive Examination which deals with those subjects within 12 months of the date of appointment as defined in 12 NCAC 10B .0103(1).
 

(a)	Civil Process	24 hours
(b)	Sheriffs' Responsibilities: Detention Duties	4 hours
(c)	Sheriffs' Responsibilities: Court Duties	6 hours
	<b>UNIT TOTAL</b>	<b>34 hours</b>
- (4) Persons who have training and experience as a military law enforcement officer and are appointed as a deputy sheriff in North Carolina shall complete a commission-certified Basic Law Enforcement Training Course in its entirety regardless of previous military training and experience and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0503(a).
- (5) Persons transferring to a sheriff's office from another law enforcement agency who have

- previously completed a commission-certified Basic Law Enforcement Training Course beginning on or after January 1, 1996 and continuing to July 1, 1997, and who did not complete the Commission's Driver Training curriculum, and who have been separated from a sworn law enforcement position for no more than one year or who have had no break in service shall complete the following enumerated topics of a commission-certified Basic Law Enforcement Training Course within 12 months of the date of appointment as defined in 12 NCAC 10B .0103(1): Law Enforcement Driver Training 40 hours
- (6) North Carolina applicants shall:
- (a) have a minimum of two years full-time sworn law enforcement experience which occurred prior to their application;
  - (b) have had a break in service exceeding one year;
  - (c) have previously received General or Grandfather certification as a sworn law enforcement officer by either the Commission or the North Carolina Criminal Justice Education and Training Standards Commission, and such certification has not been denied, revoked or suspended by either Commission; and
  - (d) have held general powers of arrest.
- (7) Out-of-state transferees shall:
- (a) have a minimum of two years full-time sworn law enforcement experience which occurred prior to their application;
  - (b) have held certification in good standing as a sworn law enforcement officer from the appropriate Peace Officer's Standards and Training entity in the transferee's respective state;
  - (c) have had general powers of arrest; and
  - (d) submit documentation verifying their qualified status.
- (8) Federal Transferees shall:
- (a) have a minimum of two years full-time sworn law enforcement experience;
  - (b) have held certification or commissioning as a sworn law enforcement officer from the appropriate federal entity authorized to issue such sworn law enforcement officers certification or commission;
  - (c) have held general powers of arrest; and
  - (d) submit documentation verifying their qualified status.
- (9) North Carolina applicants; qualified out-of-state transferees; and qualified federal transferees shall be allowed to select one of the following two options for gaining North Carolina certification as a deputy sheriff:
- (a) Undertake and successfully complete Basic Law Enforcement Training in its entirety during a one year probationary period and successfully pass the State Comprehensive Examination;
  - (b) Pass the following entry criteria:
    - (i) Challenge the Basic Law Enforcement Training Comprehensive State Examination to be delivered at the end of an ongoing Basic Law Enforcement Training Course and successfully pass each unit examination of the comprehensive examination with a minimum score of 70%. Any applicant failing to pass more than two unit examinations shall complete the Basic Law Enforcement Training Course in its entirety. Any applicant failing one or two unit examinations shall enroll in each topic area which comprises that unit taught in a subsequent BLET course and submit to the unit examination at the end of the course and pass that unit examination;
    - (ii) Each applicant shall demonstrate proficiency in the following skills related activities to the satisfaction of an appropriate instructor certified by the North Carolina Criminal Justice Education and Training Standards Commission. Successful completion of the skills related activities shall be documented on a Commission approved form by the certified instructor;
      - (A) First Responder;
      - (B) Firearms;
      - (C) Law Enforcement Driver Training;
      - (D) Physical Fitness; and

(E) Subject Control Arrest Techniques.

- (iii) Any applicant failing to pass a unit examination after remediation as referenced in Rule 12 NCAC 10B .0505(9)(b)(i) shall be required to complete Basic Law Enforcement Training in its entirety; and
- (iv) All criteria referenced in 12 NCAC 10B .0505(9)(b)(i) and (ii) must be successfully completed within the one-year probationary period.

- (10) Persons transferring to a sheriff's office from another law enforcement agency who held certification and who have previously been granted a training waiver by the North Carolina Criminal Justice Commission and who have been separated from a sworn law enforcement position for no more than one year or who had no break in service shall not be required to complete the Basic Law Enforcement Training course, but shall have the waiver honored by this Commission.
- (11) Persons previously holding Grandfather law enforcement certification in accordance with G.S. 17C-10(a) or G.S. 17E-7(a) who have been separated from a sworn law enforcement position for less than one year or have had no break in service shall not be required to complete a commission-certified Basic Law Enforcement Training Course.

*Authority G.S. 17E-4; 17E-7.*

#### **12 NCAC 10B .0510 CERTIFICATION TRAINING FOR SCHOOL RESOURCE OFFICERS**

(a) The School Resource Officer training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to perform in the capacity of a School Resource Officer. The course shall consist of not less than 40 hours of training.

(b) The "School Resource Officer Training" course as authored by the North Carolina Justice Academy is to be applied as basic curriculum for the school resource officer training course for law enforcement officers certified with the Commission.

(c) Deputy sheriffs assigned by their agency to perform the duties of a School Resource Officer shall:

- (1) Have been issued general certification by the North Carolina Sheriffs' Education and Training Standards Commission as a law enforcement officer; and
- (2) Have completed or will complete within one year after being assigned by their agency as a School Resource Officer the "School Resource Officer Training" course pursuant to Paragraph (b) of this Rule.

*Authority G.S. 17E-4; 17E-7.*

#### **SECTION .2000 - IN-SERVICE TRAINING FOR JUSTICE OFFICERS**

##### **12 NCAC 10B .2005 MINIMUM TRAINING REQUIREMENTS**

(a) A Sheriff or Department Head may use a lesson plan developed by the North Carolina Justice Academy or a lesson plan for any of the topic areas developed by another entity. The Sheriff or Department Head may also use a lesson plan developed by a certified instructor, provided that the instructor develops the lesson plan in accordance with the Instructional Systems Development model as taught in Criminal Justice Instructor Training and as described in 12 NCAC 09B .0209. Lesson plans shall be designed to be delivered in hourly increments. A student who completes the training shall receive the number of credits that correspond to the number of hours assigned to the course, regardless of the amount of time the student spends completing the course, where each hour of instruction shall be worth one credit (e.g., "Legal Update" is designed to be delivered in four hours and will yield four credits). With the exception of Firearms Training and Requalification, successful completion of training shall be demonstrated by passing tests as developed by the delivering agency or as written by the North Carolina Justice Academy. A written test comprised of at least five questions per hour of training shall be developed by the delivering agency, or the agency may use the written test developed by the North Carolina Justice Academy, for each in-service training topic. A student shall pass each test by achieving 70 percent correct answers. Firearms Training and Requalification shall be demonstrated qualification with a firearm as set out in Section .2100 of this Subchapter.

~~(b) The 2017 Law Enforcement In Service Training Program requires 24 credits of training and successful completion in the following topic areas:~~

- ~~(1) Legal Update;~~
- ~~(2) Positively Impacting Today's Youth;~~
- ~~(3) Domestic Violence: Protecting Victims of Domestic Violence;~~
- ~~(4) Improving Decision Making Skills;~~
- ~~(5) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and~~
- ~~(6) Any topic areas of the Sheriff's choosing.~~

~~(c) The 2017 Detention Officer In Service Training Program requires 16 credits of training and successful completion in the following topic areas:~~

- ~~(7) Detention Legal Update;~~
- ~~(8) Detention Intelligence Update;~~
- ~~(9) Recognizing Substance Abuse and Withdrawal;~~
- ~~(10) Improving Decision Making Skills; and~~
- ~~(11) Any topic areas of the Sheriff's or Department Head's choosing.~~

~~(d) The 2017 Telecommunicator In Service Training Program requires 16 credits of training and successful completion in the following topic areas:~~

- ~~(1) Post Critical Incident Stress Management;~~
- ~~(2) Protecting Victims of Domestic Violence;~~

- ~~(3)~~ Improving Decision Making Skills;
- ~~(4)~~ Law Enforcement Intelligence Update; and
- ~~(5)~~ Any topic areas of the Sheriff's or Department Head's choosing.

~~(b)~~ The 2018 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:

- (1) Legal Update;
- (2) Strategies to Improve Law Enforcement Interactions and Relationships with Minority Youth;
- (3) Equality in Policing;
- (4) Communications Skills With Persons In Crisis – De-escalation Techniques;
- (5) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (6) Any topic areas of the Sheriff's choosing.

~~(c)~~ The 2018 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Recognizing Warning Signs and Strategies Associated with Mental Illness;
- (2) Equality in Detention Practices;
- (3) Communications Skills With Persons In Crisis – De-escalation Techniques;
- (4) Career Survival; and
- (5) Any topic areas of the Sheriff's or Department Head's choosing.

~~(d)~~ The 2018 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Communications Center Trainer;
- (2) Equality in Policing;
- (3) Communications Skills With Persons In Crisis – De-escalation Techniques; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

(e) The 2019 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:

- (1) Legal Update;
- (2) Juvenile Law Update;
- (3) Individual Wellness: Coping with Stress and PTSD;
- (4) Best Practices for Officers During Community Dissent;
- (5) Law Enforcement Intelligence Update: Gangs and Divisive Groups;
- (6) Domestic Violence: Law and Procedure Update;
- (7) Opioid Awareness and Response;
- (8) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (9) Any topic areas of the Sheriff's choosing.

(f) The 2019 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Detention Officer Legal Update;
- (2) Detention Intelligence Update: Gangs and Divisive Groups;
- (3) Individual Wellness: Coping with Stress and PTSD;
- (4) Inmate Suicide Prevention;
- (5) Opioid Awareness and Response; and
- (6) Any topic areas of the Sheriff's or Department Head's choosing.

(g) The 2019 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Individual Wellness: Coping with Stress and PTSD;
- (2) Civil Liability for Telecommunicators;
- (3) Human Fatigue in Shift Work; Strategies for Improving Performance;
- (4) Handling Difficult Callers; and
- (5) Any topic areas of the Sheriff's or Department Head's choosing.

Authority G.S. 17E-4; 17E-7.

## TITLE 13 – DEPARTMENT OF LABOR

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Department of Labor intends to adopt the rule cited as 13 NCAC 15 .0208.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.labor.nc.gov/>

**Proposed Effective Date:** November 1, 2018

**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): A written request for a public hearing on the proposed rule must be sent to the following address within 15 days after the notice of text is published: Jill Cramer, General Counsel, Legal Affairs, NC Department of Labor, 1101 Mail Service Center, Raleigh, NC 27699-1101.*

**Reason for Proposed Action:** *This rule adopts the American Society of Mechanical Engineers Standard A17.8-2016, which is the most current standard for design, construction, installation, alteration, repair, replacement, inspection, maintenance and operation of all wind turbine elevators. The proposed rule is in response to the installation of 104 wind turbines in the eastern part of North Carolina, known as the Amazon Wind Farm. The Elevator Safety Act of North Carolina, Article 14A of Chapter 95 of the NC General Statutes, requires the Elevator and Amusement Device Division of the NC Department of Labor to inspect and have tested for acceptance all new, altered or relocated devices or equipment subject to the provisions of Article 14A. Wind turbines incorporate a specialized elevator into their design. The elevator inspectors will inspect the wind turbine elevators based on the A17.8-2016 standards.*



**Comments may be submitted to:** Jill F. Cramer, 1101 Mail Service Center, Raleigh, NC 27699-1101, email [jill.cramer@labor.nc.gov](mailto:jill.cramer@labor.nc.gov)

**Comment period ends:** September 14, 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 15 - ELEVATOR AND AMUSEMENT DEVICE DIVISION**

**SECTION .0200 – CODES AND STANDARDS**

**13 NCAC 15 .0208 SAFETY STANDARDS FOR WIND TURBINE TOWER ELEVATORS**

(a) The design, construction, installation, alteration, repair, replacement, inspection, maintenance and operation of all installations of wind turbine elevators shall conform to the rules in this Section and the A17.8-2016 - American Society of Mechanical Engineers, which is hereby incorporated by reference. This incorporation includes subsequent amendments and editions of this Code.

(b) The rules of this Chapter shall control when any conflict exists between these rules and the A17.8-2016 - American Society of Mechanical Engineers.

(c) Copies of the A17.8-2016 - American Society of Mechanical Engineers are available for inspection at the offices of the Division, and may be obtained from the American Society of Mechanical Engineers (ASME), via U.S. Mail at ASME Headquarters, Two Park Avenue, New York, New York 10017, via telephone at (800) 843-2763, or via the internet at [www.asme.org](http://www.asme.org). The publication is available in print or digitally at a cost of fifty-eight dollars (\$58.00) per copy.

*Authority G.S. 95-110.*

**TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rules cited as 15A NCAC 07H .0308, .1704, and 1705.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <https://deq.nc.gov/permits-regulations/rules-regulations/proposed-rules>

**Proposed Effective Date:** December 1, 2018

**Public Hearing:**

**Date:** August 2, 2018

**Time:** 4:00 p.m. - 5:30 p.m.

**Location:** 400 Commerce Avenue, Morehead City, NC 28557

**Reason for Proposed Action:** *The Coastal Resources Commission (CRC) proposes to amend its administrative rules in order to comply with a recent legislative mandate (S.L. 2015-241) related to the management of temporary erosion control structures (sandbags) along oceanfront and estuarine shorelines. The amendments also include changes requested by local government and agency stakeholders and recommended by the CRC and Coastal Resources Advisory Council. The amendments will provide uniformity in administration of the sandbag rules while still serving to protect life and property from the hazardous forces indigenous to the Atlantic shoreline.*

**Comments may be submitted to:** Braxton Davis, 400 Commerce Avenue, Morehead City, NC 28557

**Comment period ends:** September 14, 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 07 - COASTAL MANAGEMENT

### SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

#### SECTION .0300 - OCEAN HAZARD AREAS

#### 15A NCAC 07H .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

(a) Ocean Shoreline Erosion Control Activities:

(1) Use Standards Applicable to all Erosion Control Activities:

(A) All oceanfront erosion response activities shall be consistent with the general policy statements in 15A NCAC 07M .0200.

(B) Permanent erosion control structures may cause significant adverse impacts on the value and enjoyment of adjacent properties or public access to and use of the ocean beach, and, therefore, unless specifically authorized under the Coastal Area Management Act, are prohibited. Such structures include bulkheads, seawalls, revetments, jetties, groins and breakwaters.

(C) Rules concerning the use of oceanfront erosion response measures apply to all oceanfront properties without regard to the size of the structure on the property or the date of its construction.

~~(D)~~ All permitted oceanfront erosion response projects, other than beach bulldozing and temporary placement of sandbag structures, shall demonstrate sound engineering for their planned purpose.

~~(E)~~(D) Shoreline erosion response projects shall not be constructed in beach or estuarine areas that sustain substantial habitat for fish and wildlife species, as identified by natural resource agencies during project review, unless mitigation measures are incorporated into project design, as set forth in Rule ~~.0306(i)~~ .0306(h) of this Section.

~~(F)~~(E) Project construction shall be timed to minimize adverse effects on biological activity.

~~(G)~~(F) Prior to completing any erosion response project, all exposed remnants of or debris from failed erosion control

structures must be removed by the permittee.

~~(H)~~(G) ~~Erosion~~ Permanent erosion control structures that would otherwise be prohibited by these standards may be permitted on finding by the Division that:

(i) the erosion control structure is necessary to protect a bridge ~~which~~ that provides the only existing road access on a barrier island, that is vital to public safety, and is imminently threatened by erosion as defined in ~~provision~~ Part (a)(2)(B) of this Rule;

(ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate to protect public health and safety; and

(iii) the proposed erosion control structure will have no adverse impacts on adjacent properties in private ownership or on public use of the beach.

~~(H)~~(H) Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:

(i) the structure is necessary to protect a state or federally registered historic site that is imminently threatened by shoreline erosion as defined in ~~provision~~ Part (a)(2)(B) of this Rule;

(ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate and practicable to protect the site;

(iii) the structure is limited in extent and scope to that necessary to protect the site; and

(iv) ~~any~~ a permit for a structure under this Part ~~(H)~~ may be issued only to a sponsoring public agency for projects where the public benefits outweigh the ~~short or long range~~ significant adverse impacts. Additionally, the permit shall include

- conditions providing for mitigation or minimization by that agency of ~~any unavoidable~~ significant adverse impacts on adjoining properties and on public access to and use of the beach.
- ~~(I)~~(I) Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:
- (i) the structure is necessary to maintain an existing commercial navigation channel of regional significance within federally authorized limits;
  - (ii) dredging alone is not practicable to maintain safe access to the affected channel;
  - (iii) the structure is limited in extent and scope to that necessary to maintain the channel;
  - (iv) the structure shall not ~~adversely impact~~ have significant adverse impacts on fisheries or other public trust resources; and
  - (v) ~~any~~ a permit for a structure under this Part ~~(I)~~ may be issued only to a sponsoring public agency for projects where the public benefits outweigh the ~~short or long range~~ significant adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of any ~~unavoidable~~ significant adverse impacts on adjoining properties and on public access to and use of the beach.
- ~~(K)~~(J) The Commission may renew a permit for an erosion control structure issued pursuant to a variance granted by the Commission prior to 1 July 1995. The Commission may authorize the replacement of a permanent erosion control structure that was permitted by the Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the Commission finds that:
- (i) the structure will not be enlarged beyond the dimensions set out in the permit;
  - (ii) there is no practical alternative to replacing the structure that will provide the same or similar benefits; and
  - (iii) the replacement structure will comply with all applicable laws and with all rules, other than the rule or rules with respect to which the Commission granted the variance, that are in effect at the time the structure is replaced.
- ~~(L)~~(K) Proposed erosion response measures using innovative technology or design shall be considered as experimental and shall be evaluated on a case-by-case basis to determine consistency with 15A NCAC 07M .0200 and general and specific use standards within this Section.
- (2) Temporary Erosion Control Structures:
- (A) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.
  - (B) Temporary erosion control structures as defined in Part ~~(2)~~(A) of this Subparagraph ~~shall~~ may be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.
  - (C) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed under 15A NCAC 07H .0309 as an exception to the erosion setback requirement.

- (D) Temporary erosion control structures may be placed ~~seaward~~ waterward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.
- (E) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be ~~protected~~ protected except to align with temporary erosion control structures on adjacent properties, where the Division has determined that gaps between adjacent erosion control structures may result in an increased risk of damage to the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet ~~seaward~~ waterward of the structure to be ~~protected~~ protected, or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at an increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet ~~seaward~~ waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or ~~their~~ the Director's designee in accordance with Part (2)(A) of this Subparagraph.
- (F) Temporary erosion control structures may remain in place for up to ~~two~~ years after the date of approval if they are protecting a building with a total floor area of 5000 sq. ft. or less and its associated septic system, or, for up to five ~~eight~~ years for a building with a total floor area of more than 5000 sq. ft. and its associated septic system. ~~Temporary erosion control structures may remain in place for up to five years if they are protecting~~ system, a bridge or a road. The property owner shall be responsible for removal of the temporary structure any portion of the temporary erosion control structure exposed above grade within 30 days of the end of the allowable time period.
- (G) An imminently threatened structure or property may be protected only once, regardless of ownership, unless the threatened structure or property is located in a community that is actively pursuing a beach nourishment project, or an inlet relocation or stabilization project in accordance with Part (H) of this Subparagraph. Existing temporary erosion control structures may be permitted for additional eight-year periods provided that the structure or property being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this Subchapter, and the community in which it is located is actively pursuing a beach nourishment or an inlet relocation or stabilization project in accordance with Part (H) of this Subparagraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Part (F) or (H) of this Subparagraph shall begin at the time the initial erosion control structure was installed. For the purpose of this Rule:
- (i) a building and its septic system shall be considered separate structures,
  - (ii) a road or highway may be incrementally protected as sections become imminently threatened. The time period for removal of each contiguous section of temporary erosion control structure shall begin at the time that the initial section was installed, in accordance with Part (F) of this Subparagraph.
- (G)(H) ~~Temporary sandbag erosion control structures may remain in place for up to eight years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project, or if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation or stabilization project~~

~~in accordance with G.S. 113A-115.1.~~  
For purposes of this Rule, a community is considered to be actively pursuing a beach ~~nourishment~~, nourishment or an inlet relocation or stabilization project in accordance with G.S. 113A-115.1 if it ~~has it:~~

- (i) has been issued an active CAMA permit, where necessary, approving such project; or
- (ii) has been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction ~~Study~~ Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or
- (iii) has received a favorable economic evaluation report on a federal project; or
- (iv) is in the planning stages of a project designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and initiated by a local government or community with a commitment of local or state funds to construct the project ~~and~~ or the identification of the financial resources or funding bases necessary to fund the beach nourishment, inlet relocation or stabilization project.

If beach nourishment, inlet relocation or stabilization is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Part (F) of this Subparagraph.

~~(H)(I)~~ Once ~~the~~ a temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to relocation or removal of the threatened structure, it

shall be removed to the maximum extent practicable by the property owner within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure. If the temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to the completion of a storm protection project constructed by the U.S. Army Corps of Engineers, a large-scale beach nourishment project, or an inlet relocation or stabilization project, it any portion of the temporary erosion control structure exposed above grade shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.

~~(J)~~ Removal of temporary erosion control structures is not required if they are covered by ~~dunes with stable and natural vegetation.~~ sand. Any portion of the temporary erosion control structure that becomes exposed above grade after the expiration of the permitted time period shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management.

~~(K)~~ The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.

~~(L)~~ Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the temporary erosion control structure shall not exceed 20 feet, and the ~~total~~ height shall not exceed six ~~feet.~~ feet, as measured from the bottom of the lowest bag.

~~(M)~~ Soldier pilings and other types of devices to anchor sandbags shall not be allowed.

~~(N)~~ An imminently threatened structure may be protected only once, regardless of ownership, unless the threatened structure is located in a community that is actively pursuing a beach nourishment project, or in an Inlet Hazard Area and in a community that

~~is actively pursuing an inlet relocation or stabilization project in accordance with (G) of this Subparagraph. Existing temporary erosion control structures located in Inlet Hazard Areas may be eligible for an additional eight year permit extension provided that the structure being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this Subchapter and the community in which it is located is actively pursuing a beach nourishment, inlet relocation or stabilization project in accordance with Part (G) of this Subparagraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Part (F) or (G) of this Subparagraph shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:~~

- ~~(i) a building and septic system shall be considered as separate structures.~~
- ~~(ii) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each section of sandbags shall begin at the time that section is installed in accordance with Part (F) or (G) of this Subparagraph.~~

- (N) Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Part (F) or (G) of this Subparagraph.
- (3) Beach Nourishment. Sand used for beach nourishment shall be compatible with existing grain size and in accordance with 15A NCAC 07H .0312.
- (4) Beach Bulldozing. Beach bulldozing (defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation to create a protective sand dike or to obtain material for any other purpose) is development and may be permitted as an erosion response if the following conditions are met:

- (A) The area on which this activity is being performed shall maintain a slope of adequate grade so as to not endanger the public or the public's use of the beach and shall follow the pre-emergency slope as closely as possible. The movement of material utilizing a bulldozer, front end loader, backhoe, scraper, or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation;
- (B) The activity shall not exceed the lateral bounds of the applicant's property unless he has permission of the adjoining land owner(s);
- (C) Movement of material from seaward of the mean low water line will require a CAMA Major Development and State Dredge and Fill Permit;
- (D) The activity shall not increase erosion on neighboring properties and shall not have an adverse effect on natural or cultural resources;
- (E) The activity may be undertaken to protect threatened on-site waste disposal systems as well as the threatened structure's foundations.

(b) Dune Establishment and Stabilization. Activities to establish dunes shall be allowed so long as the following conditions are met:

- (1) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same general configuration as adjacent natural dunes.
- (2) Existing primary and frontal dunes shall not, except for beach nourishment and emergency situations, be broadened or extended in an oceanward direction.
- (3) Adding to dunes shall be accomplished in such a manner that the damage to existing vegetation is minimized. The filled areas shall be immediately replanted or temporarily stabilized until planting can be successfully completed.
- (4) Sand used to establish or strengthen dunes shall be of the same general characteristics as the sand in the area in which it is to be placed.
- (5) No new dunes shall be created in inlet hazard areas.
- (6) Sand held in storage in any dune, other than the frontal or primary dune, may be redistributed within the AEC provided that it is not placed any farther oceanward than the crest of a primary dune or landward toe of a frontal dune.
- (7) No disturbance of a dune area shall be allowed when other techniques of construction can be utilized and alternative site locations exist to avoid unnecessary dune impacts.

(c) Structural Accessways:

- (1) Structural accessways shall be permitted across primary dunes so long as they are designed and constructed in a manner that entails negligible alteration on the primary dune. Structural accessways shall not be considered threatened structures for the purpose of Paragraph (a) of this Rule.
- (2) An accessway shall be conclusively presumed to entail negligible alteration of a primary dune provided that:
  - (A) The accessway is exclusively for pedestrian use;
  - (B) The accessway is less than six feet in width;
  - (C) The accessway is raised on posts or pilings of five feet or less depth, so that wherever possible only the posts or pilings touch the frontal dune. Where this is deemed impossible, the structure shall touch the dune only to the extent absolutely necessary. In no case shall an accessway be permitted if it will diminish the dune's capacity as a protective barrier against flooding and erosion; and
  - (D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.
- (3) An accessway which does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it meets a public purpose or need which cannot otherwise be met and it meets Part (2)(C) of this Paragraph. Public fishing piers shall not be deemed to be prohibited by this Rule, provided all other applicable standards are met.
- (4) In order to avoid weakening the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") shall be provided for any off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 10 feet in width and shall be constructed of wooden sections fastened together over the length of the affected dune area.

(d) Building Construction Standards. New building construction and any construction identified in .0306(a)(5) of this Section and 15A NCAC 07J .0210 shall comply with the following standards:

- (1) In order to avoid danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a 100-year storm. Any building constructed within the ocean hazard area shall comply with relevant sections of the North Carolina Building Code including the Coastal and Flood Plain Construction Standards and the local flood damage prevention ordinance as required by the

National Flood Insurance Program. If any provision of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards, the more restrictive provision shall control.

- (2) All building in the ocean hazard area shall be on pilings not less than eight inches in diameter if round or eight inches to a side if square.
- (3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure. For those structures so located on or seaward of the primary dune, the pilings shall extend to five feet below mean sea level.
- (4) All foundations shall be adequately designed to be stable during applicable fluctuations in ground elevation and wave forces during a 100-year storm. Cantilevered decks and walkways shall meet this standard or shall be designed to break-away without structural damage to the main structure.

*Authority* G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a.,b.,d.; 113A-115.1; 113A-124.

**SECTION .1700 - GENERAL PERMIT FOR  
EMERGENCY WORK REQUIRING A CAMA AND/OR A  
DREDGE AND FILL PERMIT**

**15A NCAC 07H .1704 GENERAL CONDITIONS**

(a) Work permitted by means of an emergency general permit shall be subject to the following limitations:

- (1) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative so that the proposed emergency work can be delineated. Written authorization to proceed with the proposed development may be issued during this visit.
- (2) No work shall be permitted other than that which is necessary to ~~reasonably~~ protect against or reduce the imminent danger caused by the emergency, to restore the damaged property to its condition immediately before the emergency, or to re-establish necessary public facilities or transportation corridors.
- (3) Any permitted temporary erosion control projects shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of way in the case of ~~roads~~ roads, except as provided under 15A NCAC 07H .0308. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet ~~seaward~~ waterward of the structure being protected. In cases of increased risk of imminent damage, the

location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee.

- (4) Fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source. Excavation below MHW in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.
- (5) Structural work shall meet sound engineering practices.
- (6) This permit allows the use of oceanfront erosion control measures for all oceanfront properties without regard to the size of the existing structure on the property or the date of construction.

(b) Individuals shall allow authorized representatives of the Department of ~~Environment and Natural Resources~~ Environmental Quality to make inspections ~~at any time deemed necessary~~ to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions in these Rules.

(c) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.

(d) This permit shall not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality, air quality, coastal wetlands, cultural or historic sites, wildlife, fisheries resources, or public trust rights.

(e) This permit does not eliminate the need to obtain any other state, local, or federal authorization.

(f) Development carried out under this permit must be consistent with all local requirements, CAMA rules, and local land use plans, storm hazard mitigation, and post-disaster recovery plans current at the time of authorization.

*Authority G.S. 113-229(c); 113A-107(a),(b); 113A-113(b); 113A-118.1.*

#### **15A NCAC 07H .1705 SPECIFIC CONDITIONS**

(a) Temporary Erosion Control Structures in the Ocean Hazard AEC.

- (1) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.
- (2) Temporary erosion control structures as defined in Subparagraph (1) of this Paragraph ~~shall~~ may be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure is considered imminently threatened if its foundation, septic system, ~~or, or~~ right-of-way in the case of ~~roads, roads~~ is less than 20 feet away from the erosion scarp. Buildings and

roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when the Division determines that site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.

(3) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed under 15A NCAC 07H .0309 as an exception to the erosion setback requirement.

(4) Temporary erosion control structures may be placed ~~seaward~~ waterward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.

(5) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be ~~protected~~. protected except to align with temporary erosion control structures on adjacent properties, where the Division has determined that gaps between adjacent erosion control structures may result in an increased risk of damage to the structure being protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet ~~seaward~~ waterward of the structure to be protected or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet ~~seaward~~ waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee in accordance with Subparagraph (1) of this Paragraph.

(6) Temporary erosion control structures may remain in place for up to ~~two years after the date of approval if they are protecting a building with a total floor area of 5000 square feet or less and its associated septic system, or for up to five~~ eight years for a building with a total floor area of more than 5000 square feet and its associated septic system. ~~Temporary erosion control structures may remain in place for up to five years if they are protecting system, a bridge or a road. The property owner shall be responsible for removal of the temporary structure any portion of the temporary erosion control structure exposed above grade within 30 days of the end of the allowable time period.~~



(7) ~~Temporary sandbag erosion control structures may remain in place for up to eight years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project, or if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation or stabilization project in accordance with G.S. 113A-115.1~~ For purposes of this Rule, a community is considered to be actively pursuing a beach ~~nourishment~~, nourishment or an inlet relocation or stabilization project if ~~it has:~~ it:

- (A) has an active CAMA permit, where necessary, approving such project; or
- (B) has been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or
- (C) has received a favorable economic evaluation report on a federal project; or
- (D) is in the planning stages of a project designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and initiated by a local government or community with a commitment of local or state funds to construct the project ~~and~~ or the identification of the financial resources or funding bases necessary to fund the beach ~~nourishment~~, nourishment or inlet relocation or stabilization project.

If beach nourishment, inlet relocation or stabilization is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Subparagraph (6) of this Paragraph.

(8) Once ~~the~~ a temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to relocation or removal of the threatened structure, it shall be removed by the property owner to the maximum extent practicable within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure. If the temporary erosion control structure is determined by the Division

of Coastal Management to be unnecessary due to the completion of a storm protection project constructed by the U.S. Army Corps of Engineers, a large scale beach nourishment project, or an inlet relocation or stabilization project, if any portion of the temporary erosion control structure exposed above grade shall be removed by the permittee within 30 days of official notification by the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.

(9) Removal of temporary erosion control structures is not required if they are covered by ~~dunes with stable and natural vegetation. sand.~~ Any portion of a temporary erosion control structure that becomes exposed after the expiration of the permitted time period shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management.

(10) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.

(11) Sandbags used to construct temporary erosion control structures shall be tan in color and 3 to 5 feet wide and 7 to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the total height shall not exceed 6 ~~feet.~~ feet, as measured from the bottom of the lowest bag.

(12) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.

(13) Excavation below mean high water in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.

(14) An imminently threatened structure may be protected only once regardless of ownership, unless the threatened structure is located in a community that is actively pursuing a beach nourishment project, ~~or in an Inlet Hazard Area and in a community that is actively pursuing an inlet relocation or stabilization project in accordance with Subparagraph (7) of this Paragraph.~~ Existing temporary erosion control structures may be eligible permitted for an additional eight-year permit extension periods provided that the structure being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this ~~Subparagraph~~ Subparagraph, and the community in which it is located is actively pursuing a beach ~~nourishment~~, nourishment or an inlet relocation or stabilization project in accordance with Subparagraph (7) of this Paragraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building

become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Subparagraph (6) or (7) of this Paragraph shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:

- (A) a building and its associated septic system shall be considered as separate structures.
- (B) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each contiguous section of sandbags shall begin at the time that section is installed in accordance with Subparagraph (6) or (7) of this ~~Rule~~ Paragraph.

- (15) Existing ~~sandbag~~ temporary erosion control structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Subparagraph (6) or (7) of this ~~Rule~~ Paragraph.

(b) Erosion Control Structures in the Estuarine Shoreline, Estuarine Waters, and Public Trust AECs. Work permitted by this general permit shall be subject to the following limitations:

- (1) No work shall be permitted other than that which is necessary to ~~reasonably~~ protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;
- (2) The erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet ~~seaward~~ waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee.
- (3) Fill material used in conjunction with emergency work for storm or erosion control in the Estuarine Shoreline, Estuarine Waters and Public Trust AECs shall be obtained from an upland source.

(c) Protection, Rehabilitation, or Temporary Relocation of Public Facilities or Transportation Corridors.

- (1) Work permitted by this general permit shall be subject to the following limitations:
  - (A) no work shall be permitted other than that which is necessary to protect against or reduce the imminent danger

- (B) caused by the emergency or to restore the damaged property to its condition immediately before the emergency; the erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of-way in the case of roads. If a public facility or transportation corridor is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet ~~seaward~~ waterward of the facility or corridor being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee in accordance with Subparagraph (a)(1) of this Rule.
- (C) any fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source except that dredging for fill material to protect public facilities or transportation corridors shall be considered in accordance with standards in 15A NCAC 07H .0208; and
- (D) all fill materials or structures associated with temporary relocations which are located within Coastal Wetlands, Estuarine Water, or Public Trust AECs shall be removed after the emergency event has ended and the area restored to pre-disturbed conditions.
- (2) This permit authorizes only the immediate protection or temporary rehabilitation or relocation of existing public facilities. Long-term stabilization or relocation of public facilities shall be consistent with local governments' post-disaster recovery plans and policies which are part of their Land Use Plans.

*Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-115.1; 113A-118.1.*

## TITLE 21– OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

### CHAPTER 29 - LOCKSMITH LICENSING BOARD

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Locksmith Licensing Board intends to amend the rules cited as 21 NCAC 29 .0404, .0502, .0701 and .0802*

**Link to agency website pursuant to G.S. 150B-21.2(c):**  
<http://www.nclocksmithboard.org>

**Proposed Effective Date:** *January 1, 2019*

**Public Hearing:**

**Date:** *August 13, 2018*

**Time:** *10:00am*

**Location:** *Young Moore and Henderson, 3101 Glenwood Avenue, Suite 200, Raleigh, NC 27609*

**Reason for Proposed Action:**

*21 NCAC 29 .0802 is proposed to be amended to reduce the required continuing education hours for licensees on the basis that such a reduction will lessen the burden on licensees without compromising public safety.*

*21 NCAC 29 .0404 is proposed to be amended to increase the license issuance fee and to establish a license replacement fee to offset the increased expenses to the Board for rising administrative, compliance and background checking costs. The issuance fee has not been raised in 16 years.*

*21 NCAC 29 .0205 is proposed to be amended to better identify the business names associated with individual licensed locksmiths, to improve identification of locksmiths and better protect the public.*

*21 NCAC 29 .0701 is proposed to be amended to allow for nationwide background checks.*

**Comments may be submitted to:** *Barden Culbreth, 1046 Washington St., Raleigh, NC 27605; phone (919) 838-8782; fax (919) 833-5743; email barden@recanc.com*

**Comment period ends:** *September 14, 2018*

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

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

**Fiscal impact (check all that apply).**

- ☐ **State funds affected**  
☐ **Environmental permitting of DOT affected**  
**Analysis submitted to Board of Transportation**

- ☐ **Local funds affected**  
☐ **Substantial economic impact ( $\geq$ \$1,000,000)**  
☐ **Approved by OSBM**  
☒ **No fiscal note required by G.S. 150B-21.4**

**SECTION .0400 - LICENSING REQUIREMENTS**

**21 NCAC 29 .0404 FEES**

The license issuance fee shall be ~~one~~ two hundred dollars (~~\$100.00~~) (\$200.00). The license issuance fee shall accompany the application for licensure. In the event the applicant is denied licensure, the fee shall be refunded. Replacement licenses are available upon written request and the fee for issuance of a replacement license shall be ten dollars (\$10.00).

*Authority G.S. 74F-6; 74F-7; 74F-9.*

**SECTION .0500 - CODE OF ETHICS**

**21 NCAC 29 .0502 FAIR BUSINESS PRACTICES**

- (a) Locksmiths shall conduct all business in compliance with all applicable local, State, and federal laws.  
 (b) Locksmiths shall analyze security problems and advance the best practicable solution for the protection of the client.  
 (c) Locksmiths shall refrain from associating themselves with or allowing the use of their name (personal or professional) by any enterprise that in any way supports fraud or misrepresentation.  
 (d) Locksmiths shall not misrepresent the features of any product or service they offer. Examples include the following:

- (1) Representing to a client that non-restricted or widely available keys (whether stamped "Do Not Duplicate" or not) provide any measure of assurance against unauthorized duplication; or
  - (2) Selling a used product as new.
- (e) Locksmiths shall avoid using any improper means of soliciting business. Examples of prohibited practices include:
- (1) Affixing stickers to permanent fixtures such as doors or door frames or in any way defacing the property of any person without his or her express written consent.
  - (2) Installing stickers or any other promotions in such fashion that they falsely represent that the locksmith or company has previously serviced the hardware in that location.
  - (3) Installing or supplying hardware that curtails the customer's ability to choose a different company or technician for product support or service, unless the locksmith obtains the customer's express written consent.
  - (4) Modifying the customer's hardware in any fashion that will curtail the customer's ability to choose a different company or technician for later product support or service or cause him or her to incur additional expense by doing so, unless the locksmith obtains the customer's express written consent.
  - (5) Direct solicitation in violation of a non-compete agreement, such as an employee offering

competing bids to customers of his or her employer.

- (6) Using a name in advertising that is similar enough to a competitor's name to cause confusion among consumers.

(f) Locksmiths shall register the business name(s) which they utilize to engage in locksmith services. All advertising for locksmith services and documents related to locksmith services in North Carolina shall be in the registered name(s) of the licensed Locksmith.

*Authority G.S. 74F-6.*

#### **SECTION .0700 – LICENSE RENEWAL REQUIREMENTS**

##### **21 NCAC 29 .0701 APPLICATION FORM**

All applications for license renewal shall be submitted on the form provided by the Board for this purpose and shall be accompanied by the following required items:

- (1) two frontal photos of the applicant's face, taken within the preceding three months, size one inch by one inch;
- (2) consent to the performance of a nationwide criminal history check to be performed by Board staff; eriminal history report, certified by the law enforcement agency or clerk of court in the applicant's county of residence;
- (3) a criminal history report, certified by the law enforcement agency or clerk of court in the applicant's county of employment, if different from the county of residence;
- (4)(3) complete and truthful explanations of affirmative responses to questions on the application regarding employment history, criminal history and military service, if applicable;
- (5)(4) payment in full of all applicable fees, by check or money order;
- (6)(5) a copy of the applicant's military discharge document (DD-214 or equivalent) if the

applicant has actively served in the military since applying for his previously granted license;

- ~~(7)~~(6) a log, in a format specified by the Board, of Continuing Education hours earned during the previous license period, including the sponsor of the program or course, the name of the instructor or lecturer, the date, the number of hours and a brief description of the subject matter included in the course or program.

*Authority G.S. 74F-6; 74F-10.*

#### **SECTION .0800 – CONTINUING EDUCATION**

##### **21 NCAC 29 .0802 REQUIREMENTS**

(a) Every licensee shall obtain ~~24~~ 16 contact hours of continuing education during each 3-year renewal cycle, except:

- (1) Persons exempted from eight contact hours in Rule .0805 of this Section; and
- (2) Persons who:
  - (A) are at least 62 years of age;
  - (B) have at least 15 years of experience as locksmiths;
  - (C) have been North Carolina licensed locksmiths for at least nine years; and
  - (D) are not subject to an investigation by the Board.

(b) The contact hours of continuing education shall be in technical and professional subjects related to the practice of locksmithing.

(c) Licensees shall not carry forward any contact hours of continuing education into the subsequent renewal period.

(d) Licensees shall verify completion of the contact hours of continuing education for the previous license period on their application for license renewal.

*Authority G.S. 74F-6.*

*This Section contains information for the meeting of the Rules Review Commission June 14, 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 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

### **RULES REVIEW COMMISSION MEMBERS**

#### **Appointed by Senate**

Jeff Hyde (1<sup>st</sup> Vice Chair)  
Robert A. Bryan, Jr.  
Margaret Currin  
Jeffrey A. Poley

#### **Appointed by House**

Garth Dunklin (Chair)  
Andrew P. Atkins  
Anna Baird Choi  
Paul Powell  
Jeanette Doran (2<sup>nd</sup> Vice Chair)

### **COMMISSION COUNSEL**

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

### **RULES REVIEW COMMISSION MEETING DATES**

July 19, 2018 August 16, 2018  
September 20, 2018 October 18, 2018

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### **RULES REVIEW COMMISSION MEETING MINUTES**

***June 14, 2018***

The Rules Review Commission met on Thursday, June 14, 2018, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Poley, and Paul Powell.

Staff members present were Commission Counsels Amber Cronk May, Amanda Reeder, and Jason Thomas; and Julie Brincefield, Alex Burgos, Cathy Matthews-Thayer, and Dana McGhee.

The meeting was called to order at 10:21 a.m. with Chairman Dunklin presiding.

Commissioner Powell joined the meeting via conference call at 10:21 a.m.

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

#### **APPROVAL OF MINUTES**

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the May 17, 2018 meeting. There were none and the minutes were approved as distributed.

#### **FOLLOW UP MATTERS**

##### **Department of Agriculture and Consumer Services**

02 NCAC 52B .0213 and 52C .0701 - Both rules were unanimously approved.

##### **Commission of Navigation and Pilotage for the Cape Fear River and Bar**

04 NCAC 15 .0119, .0121, .0123, .0124, .0127, and .0128 - Pursuant to G.S. 150B-21.12(d), the Commission objected to the rules in accordance with G.S. 150B-21.10.

The Commission objected to 04 NCAC 15 .0119 because it is unclear and ambiguous. In line 7 it is unclear whether the word "can" is permissive or mandatory. In addition, in the same line the phrase "at any time" seems to obscure the

appropriate averaging period. Finally, the use of the word “may” in line 12 arrogates to the Commission the power to issue or not issue temporary licenses in its absolute, unguided discretion.

The Commission objected to 04 NCAC 15 .0121 because it is unclear and ambiguous and is not within the statutory authority delegated to the agency. In line 28 it is unclear what “the various vessels traversing the same” means. Similarly, the sentence on lines 36-37 is ambiguous: is it intended to allow the association to act or to require that a termination recommendation by the association be supported by a majority vote of its members? Finally, there appears to be no statutory authority for the nepotism restriction in Subparagraph (g)(6).

The Commission objected to 04 NCAC 15 .0123 because it is unclear and ambiguous. On line 7 the word “immediately” is not defined. In addition, on lines 7-8 the phrase “appropriate sketches and diagrams” is ambiguous.

The Commission objected to 04 NCAC 15 .0124 because it is unclear and ambiguous. The use of the word “may” in lines 13 and 15 arrogates to the Commission the power to act in its absolute, unguided discretion.

The Commission objected to 04 NCAC 15 .0127 because it is unclear and ambiguous. It is unclear whether the use of the word “will” is a statement of fact or a regulatory requirement.

The Commission objected to 04 NCAC 15 .0128 because it is not within the statutory authority delegated to the agency. G.S. 76A-24 unambiguously authorizes the Commission to receive payments from the pilots’ association and is silent regarding payments directly from “each pilot,” as required by this Rule.

#### **Child Care Commission**

The agency is addressing the objections for 10A NCAC 09 .0401, .1904, .2201, .2202, .2203, .2204, .2205, .2206, .2207, .2208, .2209, .2213, .2216, and .2217. No action was required by the Commission.

#### **Alarm Systems Licensing Board**

14B NCAC 17 .0402 and .0403 – Pursuant to G.S. 150B-21.12(d), the rules were returned to the agency. No action was required by the Commission.

#### **LOG OF FILINGS (PERMANENT RULES)**

##### *Pre-Reviewed Rules*

#### **Department of Commerce - Division of Employment Security**

All rules were unanimously approved.

Prior to the review of the rules from Department of Commerce - Division of Employment Security, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the rules because she works at the Division of Employment Security on the Board of Review.

#### **Medical Care Commission**

All rules were unanimously approved.

#### **DHHS/Division of Medical Assistance**

Pursuant to Rule 26 NCAC 05 .0112, the Commission voted to waive Rule 26 NCAC 05 .0103 and allow written comments submitted after the deadline from Matthew Cochran.

Commissioner Poley entered the meeting and participated for the remainder of the meeting.

Commissioner Powell left the conference call and did not participate in the remainder of the meeting.

All rules were unanimously approved with the following exceptions:

The Commission approved 10A NCAC 21A .0302, with Commissioner Doran opposed.

The Commission unanimously approved 10A NCAC 21A .0303, contingent upon the agency changing “established in” to “established pursuant to” in Paragraph (f). The agency subsequently submitted the rule with the technical changes included.

The Commission approved 10A NCAC 22B .0104, contingent upon the agency changing “an action uncontrollable by the provider” to “an action outside the control of the provider” in Paragraph (d), with Chairman Dunklin opposed. The agency subsequently submitted the rule with the technical changes included.

The Commission objected to 10A NCAC 22F .0104 for lack of statutory authority and ambiguity in Subparagraph (e)(6).

The Commission objected to 10A NCAC 22F .0301 for lack of statutory authority and necessity, with Commissioner Bryan opposed.

Prior to the review of 10A NCAC 22F .0301, Commissioner Poley recused himself and did not participate in the discussion or vote for this Rule because he was not present for the discussion of the Rule.

The Commission objected to 10A NCAC 22F .0302 for lack of statutory authority regarding Subparagraph (c)(1).

The Commission objected to 10A NCAC 22F .0602 for lack of statutory authority regarding Subparagraph (a)(3).

The Commission objected to 10A NCAC 22F .0603 for lack of authority and ambiguity in Subparagraph (a)(2).

The Commission objected to 10A NCAC 22F .0604 for necessity regarding Paragraph (b), with Commissioner Atkins opposed.

The Commission unanimously approved 10A NCAC 22J .0103, contingent upon the agency changing “an action uncontrollable by the provider” to “an action outside the control of the provider” in Paragraph (a). The agency subsequently submitted the rule with the technical changes included.

The Commission objected to 10A NCAC 22J .0105 for lack of statutory authority regarding the recoupment of an overpayment prior to the exhaustion of all appeal rights.

The Commission objected to 10A NCAC 22J .0106 for lack of statutory authority regarding Subparagraphs (c)(2) and (c)(4), with Commissioners Atkins and Bryan opposed.

Mathew Cochran, with the law firm of Ott Cone & Redpath, addressed the Commission.

Brenda Eaddy, with the Attorney General’s office and representing the agency, addressed the Commission.

Virginia Niehaus, the rulemaking coordinator with the agency, addressed the Commission.

Catherine McGraw with the Attorney General’s office and representing the agency, addressed the Commission. The chair called the meeting into a brief recess at 12:26 p.m.

The meeting resumed at 12:38 p.m.

#### **Alcoholic Beverage Control Commission**

All rules were unanimously approved.

#### **Respiratory Care Board**

All rules were unanimously approved.

#### *Non Pre-Reviewed Rules*

##### **Commission for Public Health**

10A NCAC 43D .0708 was unanimously approved.

##### **Criminal Justice Education and Training Standards Commission**

All rules were unanimously approved.

##### **Environmental Management Commission**

All rules were unanimously approved.

##### **Wildlife Resources Commission 10A, 10H**

All rules were unanimously approved.

**Wildlife Resources Commission 10F**

All rules were unanimously approved.

**Irrigation Contractors Licensing Board**

All rules were unanimously approved.

**Medical Board**

21 NCAC 32R .0103 was unanimously approved.

**Board of Occupational Therapy**

All rules were unanimously approved.

**Appraisal Board**

All rules were unanimously approved.

The Commission received over 10 letters of objection in accordance with G.S. 150B-21.3(b2), requesting a delayed effective date and legislative review of 21 NCAC 57B .0102 and .0103.

**EXISTING RULES REVIEW**

**Cemetery Commission**

21 NCAC 07– The Commission unanimously approved the report as submitted by the agency.

**Marine Fisheries Commission**

15A NCAC 03 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than June 30, 2022 pursuant to G.S. 150B-21.3A(d)(2).

**Board of Physical Therapy Examiners**

21 NCAC 48F, G - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than November 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

**Banking Commission**

04 NCAC 16 —The agency requested an extension of the deadline established in Rule 26 NCAC 05 .0203, to submit the report on August 22, 2018.

The Commission approved the extension request, with Commissioner Doran opposed.

**COMMISSION BUSINESS**

The meeting adjourned at 2:57 p.m.

The next regularly scheduled meeting of the Commission is Thursday, July 19<sup>th</sup> at 10:00 a.m.

---

Alexander Burgos, Paralegal

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Minutes approved by the Rules Review Commission:  
Garth Dunklin, Chair



**June 14, 2018**

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
Adrienne Bryant Clark	DMA, Policy & Regulatory Affairs
Brenda Eaddy	DOJ
Katherine McGraw	DOJ
Virginia Nicholas	DMA
Susan Bryan	DMA
MIKE D'Allesio	DMA
Tobitha Bryant	DHB
Em Rip	DMA
David Cury	DMA
Nadine Pfeiffer	DHHS/DHSE
Sheena Cobrand	Commerce - DES
Nelly Amador	NC OEMS
Andrea C. Phillips	DMA
Ed Meyer	OCPI
Shelia Platts	DMA
Charminique Williams	CJETS
Paul C. A.	NCRCB
Betsy Haywood	NCWRC
Lou Ann Caskey	DMA
Roberta Omeltette	NCA B
Tommy Phyllis	NCCOB

**June 14, 2018**

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
Katie Bosken	MCCOB
Lareek y	DMA
Lacesta D. Parker	DMA
Gregory Daniels	DMA
Bob MARTIN	DPH
Kris Horton	DMA
Katie Little	DMA
Juelle Burleson	NCDEQ-DAQ
Mike Hatcher	
Jennifer Everett	DEQ
WACKER REAGAN	ABC Comm
Rama Badwan	NCICLB
Elizabeth Kirk	NCBOT
Charles Wilkins	NCBOT
Kathy Arney	NCB PTE
MATTHEW JORDAN COCHRAN	Ott Cone + Redpath, P.A.
M. Sancellwood	NC WRC
Shindy Terrell	NC DMA



**STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS**

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

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

June 14, 2018

Jennifer Everett  
Marine Fisheries Commission  
1601 Mail Service Center  
Raleigh, North Carolina 27699-1601

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **15A NCAC 03**

Dear Ms. Everett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the June 14, 2018 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than June 30, 2022.

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

Sincerely,

Amber May  
Commission Counsel

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

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

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

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

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

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

An Equal Employment Opportunity Employer

**RRC DETERMINATION  
PERIODIC RULE REVIEW  
December 14, 2017  
APO Review: January 09, 2018  
Marine Fisheries Commission  
Total: 163**

**RRC Determination: Necessary with substantive public interest**

<b>Rule</b>	<b>Determination</b>
<u>15A NCAC 03I .0101</u>	Necessary with substantive public interest
<u>15A NCAC 03I .0104</u>	Necessary with substantive public interest
<u>15A NCAC 03I .0105</u>	Necessary with substantive public interest
<u>15A NCAC 03I .0108</u>	Necessary with substantive public interest
<u>15A NCAC 03I .0109</u>	Necessary with substantive public interest
<u>15A NCAC 03I .0113</u>	Necessary with substantive public interest
<u>15A NCAC 03I .0114</u>	Necessary with substantive public interest
<u>15A NCAC 03I .0115</u>	Necessary with substantive public interest
<u>15A NCAC 03I .0118</u>	Necessary with substantive public interest
<u>15A NCAC 03I .0120</u>	Necessary with substantive public interest
<u>15A NCAC 03I .0122</u>	Necessary with substantive public interest
<u>15A NCAC 03J .0101</u>	Necessary with substantive public interest
<u>15A NCAC 03J .0102</u>	Necessary with substantive public interest
<u>15A NCAC 03J .0103</u>	Necessary with substantive public interest
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<u>15A NCAC 03J .0108</u>	Necessary with substantive public interest
<u>15A NCAC 03J .0109</u>	Necessary with substantive public interest
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<u>15A NCAC 03M .0521</u>	Necessary with substantive public interest
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<u>15A NCAC 03P .0303</u>	Necessary with substantive public interest
<u>15A NCAC 03P .0304</u>	Necessary with substantive public interest
<u>15A NCAC 03R .0105</u>	Necessary with substantive public interest
<u>15A NCAC 03R .0112</u>	Necessary with substantive public interest



**STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address:  
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Raleigh, NC 27699-6714

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

June 14, 2018

Deborah Ragan, Rulemaking Coordinator  
Board of Physical Therapy Examiners  
18 W. Colony Place, Suite 140  
Durham, NC 27705

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 21 NCAC 48F, G

Dear Ms. Ragan:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the June 14, 2018 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than November 30, 2019.

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

Sincerely,

  
Amber May  
Commission Counsel

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

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

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

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

An Equal Employment Opportunity Employer



**RRC DETERMINATION  
PERIODIC RULE REVIEW**

**March 15, 2018**

**APO Review: May 01, 2018**

**Physical Therapy Examiners, Board of  
Total: 3**

**RRC Determination: Necessary with substantive public interest**

<b>Rule</b>	<b>Determination</b>
<u>21</u> <u>NCAC 48F .0102</u>	Necessary with substantive public interest
<u>21</u> <u>NCAC 48F .0103</u>	Necessary with substantive public interest
<u>21</u> <u>NCAC 48G .0504</u>	Necessary with substantive public interest

**LIST OF APPROVED PERMANENT RULES**  
**June 14, 2018 Meeting**

**AGRICULTURE AND CONSUMER SERVICES, DEPARTMENT OF**

<u>Importation Requirements: Cervidae</u>	02 NCAC 52B .0213
<u>Intrastate Requirements: Cervidae</u>	02 NCAC 52C .0701

**COMMERCE - EMPLOYMENT SECURITY, DIVISION OF**

<u>Office Location</u>	04 NCAC 24A .0101
<u>Address Changes and Electronic Address Changes</u>	04 NCAC 24A .0102
<u>Addresses for Filing Claims, Appeals, Exceptions, Request...</u>	04 NCAC 24A .0104
<u>Filing/Mailing Dates and Use of Forms</u>	04 NCAC 24A .0106
<u>Power of Attorney</u>	04 NCAC 24A .0109
<u>Written Request Required</u>	04 NCAC 24A .0201
<u>Clear Description of Records Required</u>	04 NCAC 24A .0202
<u>Determination as to Disclosure</u>	04 NCAC 24A .0203
<u>Release of Information to Third Party</u>	04 NCAC 24A .0204
<u>Fees for Copies and Services</u>	04 NCAC 24A .0205
<u>Method of Payment</u>	04 NCAC 24A .0206
<u>Payment Required Before Information Release</u>	04 NCAC 24A .0207
<u>Filing a Claim</u>	04 NCAC 24B .0101
<u>Weekly Certifications</u>	04 NCAC 24B .0103
<u>Determination by Adjudicator</u>	04 NCAC 24B .0401
<u>Determination of Labor Dispute and Referral for Hearing</u>	04 NCAC 24B .0503
<u>Setoff Debt Collection Act Notice to Claimant</u>	04 NCAC 24B .0901
<u>Claimant Setoff Debt Collection Act Hearings</u>	04 NCAC 24B .0902
<u>Notice to Claimant of Referral to Top</u>	04 NCAC 24B .1001
<u>Claimant Reevaluation of Debt</u>	04 NCAC 24B .1002
<u>Timeliness Exception</u>	04 NCAC 24C .0102
<u>Base Period Employer Denied Noncharging</u>	04 NCAC 24C .0103
<u>Appearance by Party</u>	04 NCAC 24C .0201
<u>Presenting and Scheduling Appealed Claims</u>	04 NCAC 24C .0202
<u>Contents of Appeal to Appeals Section</u>	04 NCAC 24C .0203
<u>Disqualification of Appeals Referee</u>	04 NCAC 24C .0208
<u>Controlled Substance Results</u>	04 NCAC 24C .0211
<u>Combination Telephone and In-person Hearings</u>	04 NCAC 24C .0213
<u>Withdrawal of Appeal</u>	04 NCAC 24C .0214
<u>New Filing After Withdrawal of Appeal</u>	04 NCAC 24C .0215
<u>Notices, Service, and Legal Representation or Supervision...</u>	04 NCAC 24C .0302
<u>Admission of Out-of-State Attorney to Appear Before Appea...</u>	04 NCAC 24C .0303
<u>Issuance of Subpoenas</u>	04 NCAC 24C .0401
<u>Notice to Employer of Potential Charges</u>	04 NCAC 24D .0102
<u>Determination on Requests for Noncharging</u>	04 NCAC 24D .0105
<u>Appealing Denial or Request for Noncharging</u>	04 NCAC 24D .0106
<u>Determination on Grounds Contained in Protest</u>	04 NCAC 24D .0205
<u>Voluntary Election by Employers</u>	04 NCAC 24D .0401
<u>Election to Reimburse in Lieu of Contributions</u>	04 NCAC 24D .0402

<u>Payment of Employer Taxes</u>	04 NCAC 24D .0403
<u>Status Reports</u>	04 NCAC 24D .0602
<u>Transfer of Experience</u>	04 NCAC 24D .0701
<u>Application for Compromise</u>	04 NCAC 24D .0801
<u>Special Tax Investigations</u>	04 NCAC 24D .0901
<u>Request for Redetermination of Tax Rate</u>	04 NCAC 24D .1001
<u>Division's Obligations</u>	04 NCAC 24D .1002
<u>Notice to Employer of Referral to Top</u>	04 NCAC 24D .1101
<u>Employer Reevaluation of Debt</u>	04 NCAC 24D .1102
<u>Setoff Debt Collection Act Notice to Employer</u>	04 NCAC 24D .1103
<u>Employer Setoff Debt Collection Act Hearing</u>	04 NCAC 24D .1104
<u>Request for Seasonal Determination</u>	04 NCAC 24D .1201
<u>Written Determination</u>	04 NCAC 24D .1202
<u>Office Location</u>	04 NCAC 24F .0101
<u>Addresses for Notice and Electronic Notice</u>	04 NCAC 24F .0102
<u>Addresses for Filing Appeals, Exceptions, or Requests</u>	04 NCAC 24F .0103
<u>Filing/Mailing Dates and Use of Forms</u>	04 NCAC 24F .0104
<u>Signatures</u>	04 NCAC 24F .0105
<u>Appeal Date</u>	04 NCAC 24F .0106
<u>Timeliness Exception</u>	04 NCAC 24F .0107
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**RRC Determination  
Periodic Rule Review  
June 14, 2018  
Necessary without substantive public interest**

**Cemetery Commission**

<u>21 NCAC 07A .0101</u>	<u>21 NCAC 07B .0103</u>	<u>21 NCAC 07C .0105</u>
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***RULES REVIEW COMMISSION***

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21 NCAC 07D .0203

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**RRC Determination  
Periodic Rule Review  
June 14, 2018  
Unnecessary**

**Cemetery Commission**  
21 NCAC 07A .0105

21 NCAC 07C .0302

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**CONTESTED CASE DECISIONS**

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*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](mailto: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  
Tenisha Jacobs

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

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<b><u>PUBLISHED</u></b>			
17	DHR	07556	5/15/2018	Kathleen Yvette Hoffler	v.	Division of Child Development and Early Education- Department of Health and Human Services	Elkins
17	DOJ	04367	5/24/2018	Michael Peter Brigandi	v.	NC Criminal Justice Education and Training Standards Commission	Lassiter
18	DOJ	00857	5/25/2018	Edmund Brian Naumann	v.	NC Private Protective Services Board	Ward
17	EHR	01382	5/11/2018	8 1/2 Marina Village John F Matthews VP	v.	NC Department of Environmental Quality	Lassiter
16	OSP	09787	5/17/2018	Thomas C Wetherington	v.	NC Department of Public Safety, NC Highway Patrol	Overby
				<b><u>UNPUBLISHED</u></b>			
18	ABC	01673	5/23/2018	Camille Carroll	v.	ABC Commission	Mann
17	CSE	06879	5/21/2018	Giovanni Arnaboldi 1317 Overland Drive- High Point, (NC)-27262	v.	NC Department of Health and Human Services Division of Social Services Child Support Services	Malherbe
17	CSE	06967	5/23/2018	Jacquese L Allen	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
17	CSE	06968	5/23/2018	Jacquese L Allen	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby

**CONTESTED CASE DECISIONS**

17	CSE	06970	5/23/2018	Jacquese L Allen	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
17	CSE	07196	5/29/2018	Paul P Vossen	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	07347	5/11/2018	Steven H Viebrock	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
17	CSE	07412	5/21/2018	Aslam Mohammed	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
17	CSE	07460	5/8/2018	Wesley J Booth	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	07511	5/15/2018	Jay C Underkofler	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
17	CSE	07576	5/8/2018	Chad D Lacroix	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	07604	5/30/2018	Nicholas P Chonko III	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
17	CSE	07606	5/29/2018	William B McPhail	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
17	CSE	07678	5/31/2018	Thomas E Tillery	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
17	CSE	07685	5/31/2018	Dwayn Moore	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
17	CSE	07766	5/8/2018	Gina R Bond	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	07785	5/14/2018	Naim Wakim	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
17	CSE	07808	5/7/2018	Johnathon R Beadle	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
17	CSE	07853	5/8/2018	Joseph E Rands	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
17	CSE	08083	5/8/2018	Phillip C Henson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	08126	5/22/2018	Luighino Quintanilla	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	08350	5/30/2018	Angel L Rivas Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
18	CSE	00034	5/8/2018	Marc E Simpers	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward

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18	CSE	00296	5/8/2018	Timothy A Giresi	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
18	CSE	01240	5/16/2018	Brian Burnett	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
18	CSE	01354	5/18/2018	Quadius N Gaines	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
18	CSE	01472	5/11/2018	Javier D Jackson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
18	CSE	01508	5/8/2018	Jack Perry	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	DCS	08253	5/8/2018	Amanda Renee Palmer Clark	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
18	DHR	00494	5/11/2018	Bonita Carlisle	v.	North Carolina Health Care Personnel Registry	Elkins
18	DHR	00534	5/9/2018	George P Wagner III For Cardinal Care Inc (HAL-045-001)	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure	Sutton
18	DHR	00537	5/9/2018	George P Wagner III for Blue Ridge Retirement (HAL-045-008)	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure	Sutton
18	DHR	00731	5/9/2018	ARJ, LLC Alvin and Kendell Jasper	v.	Division of Health Services Regulation (DHSR)	Malherbe
18	DHR	00921	5/11/2018	Shannon L Smith	v.	Department of Health and Human Services, Division of Health Service Regulation	Lassiter
18	DHR	01394	5/24/2018	Karen Love	v.	Office of Administrative Hearings	Malherbe
18	DHR	01703	5/23/2018	Restoration Home Care Services Diane M Sherrill	v.	Public Consulting Group North Carolina Department of Health and Human Services	Mann
18	DHR	02148	5/23/2018	Tonia Mitchell	v.	Department of Health and Human Services, Division of Child Development and Early Education	Malherbe
18	DOJ	00630	5/25/2018	James Edward Whiteside	v.	NC Criminal Justice Education and Training Standards Commission	Sutton
18	DOJ	00740	5/2/2018	Bernard Walker	v.	NC Sheriffs Education and Training Standards Commission	May
18	EHR	01071	5/22/2018	Pembroke Hardware Co Inc Milton Locklear	v.	Department of Environmental Quality Division of Air Quality	Ward
18	EHR	01528	5/7/2018	Francis X Deluca	v.	NC Department of Environmental Quality	Ward
18	INS	01510	5/23/2018	Kimberly Yvette Best	v.	North Carolina State Health Plan	Mann
18	INS	01654	5/9/2018	Frankie Webster	v.	NC State Health Plan	Sutton

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**CONTESTED CASE DECISIONS**

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18	INS	01697	5/30/2018	Tomica L Sobers	v.	North Carolina State Health Plan	Overby
18	INS	02193	5/17/2018	Jonas E Okeagu	v.	North Carolina State Health Plan	Elkins
18	INS	02297	5/18/2018	JaMese Bazemore	v.	North Carolina State Health Plan	Ward
18	MIS	02481	5/15/2018	Danielle A Carter	v.	Wake County Public Safety Center The Sherrif's Office (Sheriff)	Lassiter
18	OSP	01782	5/30/2018	Virgil Christopher Scott	v.	North Carolina Central University Human Resources	Bawtinhimer
18	OSP	02149	5/30/2018	Vladimir Zaytsev	v.	North Carolina Department of Environmental Quality(DEQ)	Bawtinhimer
18	SOS	01762	5/3/2018	Connie A Morse Executive Director Friendship Adult Day Services Inc	v.	State of North Carolina Department of the Secretary of State	Lassiter