

NORTH CAROLINA REGISTER

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October 1, 2019

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Contact List for Rulemaking Questions or Concerns

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

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2019 – December 2019

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	270 th day from publication in the Register
33:13	01/02/19	12/06/18	01/17/19	03/04/19	03/20/19	04/18/19	05/01/19	09/29/19
33:14	01/15/19	12/19/18	01/30/19	03/18/19	03/20/19	04/18/19	05/01/19	10/12/19
33:15	02/01/19	01/10/19	02/16/19	04/02/19	04/22/19	05/16/19	06/01/19	10/29/19
33:16	02/15/19	01/25/19	03/02/19	04/16/19	04/22/19	05/16/19	06/01/19	11/12/19
33:17	03/01/19	02/08/19	03/16/19	04/30/19	05/20/19	06/20/19	07/01/19	11/26/19
33:18	03/15/19	02/22/19	03/30/19	05/14/19	05/20/19	06/20/19	07/01/19	12/10/19
33:19	04/01/19	03/11/19	04/16/19	05/31/19	06/20/19	07/18/19	08/01/19	12/27/19
33:20	04/15/19	03/25/19	04/30/19	06/14/19	06/20/19	07/18/19	08/01/19	01/10/20
33:21	05/01/19	04/09/19	05/16/19	07/01/19	07/22/19	08/15/19	09/01/19	01/26/20
33:22	05/15/19	04/24/19	05/30/19	07/15/19	07/22/19	08/15/19	09/01/19	02/09/20
33:23	06/03/19	05/10/19	06/18/19	08/02/19	08/20/19	09/19/19	10/01/19	02/28/20
33:24	06/17/19	05/24/19	07/02/19	08/16/19	08/20/19	09/19/19	10/01/19	03/13/20
34:01	07/01/19	06/10/19	07/16/19	08/30/19	09/20/19	10/17/19	11/01/19	03/27/20
34:02	07/15/19	06/21/19	07/30/19	09/13/19	09/20/19	10/17/19	11/01/19	04/10/20
34:03	08/01/19	07/11/19	08/16/19	09/30/19	10/21/19	11/21/19	12/01/19	04/27/20
34:04	08/15/19	07/25/19	08/30/19	10/14/19	10/21/19	11/21/19	12/01/19	05/11/20
34:05	09/03/19	08/12/19	09/18/19	11/04/19	11/20/19	12/19/19	01/01/20	05/30/20
34:06	09/16/19	08/23/19	10/01/19	11/15/19	11/20/19	12/19/19	01/01/20	06/12/20
34:07	10/01/19	09/10/19	10/16/19	12/02/19	12/20/19	01/16/20	02/01/20	06/27/20
34:08	10/15/19	09/24/19	10/30/19	12/16/19	12/20/19	01/16/20	02/01/20	07/11/20
34:09	11/01/19	10/11/19	11/16/19	12/31/19	01/21/20	02/20/20	03/01/20	07/28/20
34:10	11/15/19	10/24/19	11/30/19	01/14/20	01/21/20	02/20/20	03/01/20	08/11/20
34:11	12/02/19	11/06/19	12/17/19	01/31/20	02/20/20	03/19/20	04/01/20	08/28/20
34:12	12/16/19	11/21/19	12/31/19	02/14/20	02/20/20	03/19/20	04/01/20	09/11/20

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

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.



State of North Carolina

ROY COOPER
GOVERNOR

August 30, 2019

EXECUTIVE ORDER NO. 100

**DECLARATION OF STATE OF EMERGENCY TO
SUSPEND MOTOR VEHICLE REGULATIONS AND SUPPORT
RELIEF EFFORTS FOR HURRICANE DORIAN**

WHEREAS, Hurricane Dorian (sometimes referred to as "the Hurricane") has already impacted the Commonwealth of Puerto Rico, the Territory of the United States Virgin Islands and is anticipated to make landfall on the coast of Florida on or about the beginning of September 2019; and

WHEREAS, the Hurricane may result in catastrophic impacts to areas in the State of Florida, the southeastern United States, the Commonwealth of Puerto Rico, and the Territory of the U.S. Virgin Islands; and

WHEREAS, many states and non-profit organizations will be supporting emergency relief efforts in the State of Florida, the southeastern United States, the Commonwealth of Puerto Rico, and the Territory of the U.S. Virgin Islands, and vehicles transporting emergency relief supplies and services will be traveling through North Carolina; and

WHEREAS, N.C. Gen. Stat. § 166A-19.1(4) provides that it is the responsibility of the undersigned, state agencies, and local governments to provide for "cooperation and coordination of activities relating to emergency mitigation preparedness, response, and recovery among agencies and officials of this State and with similar agencies and officials of other states. . . and with other private and quasi-official organizations"; and

WHEREAS, N.C. Gen. Stat. §§ 166A-19.10 and 166A-19.20 authorize the undersigned to declare a state of emergency and exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, certain measures are necessary to prevent widespread transportation delays of necessary emergency relief supplies and services to areas in the Hurricane's path; and

WHEREAS, these anticipated, widespread transportation delays constitute a state of emergency for the State of North Carolina as defined in N.C. Gen. Stat. §§ 166A-19.3(6), 166A-19.3(19); and

WHEREAS, the emergency area, as defined in N.C. Gen. Stat. §§ 166A-19.3(7) and N.C. Gen. Stat. § 166A-19.20(b), is the entire State of North Carolina; and

WHEREAS, the Governors of the State of Florida, the Commonwealth of Puerto Rico, and the Territory of the U.S. Virgin Islands have declared states of emergency; and

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

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

WHEREAS, I have found that residents may suffer losses and further widespread damage within the meaning of N.C. Gen. Stat. § 166A-19.3(3) and N.C. Gen. Stat. § 166A-19.21(b); and

WHEREAS, with the concurrence of the Council of State, I hereby waive the registration requirements of N.C. Gen. Stat. § 20-86.1 and 20-382, the fuel tax requirements of N.C. Gen. Stat. § 105-449.47, and the size and weight requirements of N.C. Gen. Stat. §§ 20-116, 20-118 and 20-119 that would apply to vehicles carrying emergency relief supplies or services to assist Hurricane victims; and

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

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70, the undersigned may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C. Gen. Stat. § 20-381 should be waived for (1) persons transporting essential fuels, food, water, medical supplies, feed for livestock and poultry, (2) persons transporting livestock, poultry, and crops ready to be harvested and (3) vehicles used in the restoration of utility services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70(g), upon the recommendation of the North Carolina Commissioner of Agriculture and the existence of an imminent threat of severe economic loss of livestock, poultry or crops ready to be harvested, the undersigned shall direct the North Carolina Department of Public Safety ("DPS") to temporarily suspend weighing vehicles used to transport livestock, poultry, or crops ready to be harvested; and

WHEREAS, on August 29, 2019, the Federal Motor Carrier Safety Administration ("FMCSA") issued a regional emergency declaration, FMCSA No. 2019-005, pursuant to 49 C.F.R. § 390.23 to provide regulatory relief for commercial motor vehicle operations under 49 C.F.R. Parts 390-399, if such operations are directly supporting Hurricane emergency relief efforts through the transportation of supplies, fuel, equipment, and persons or the provision of emergency services; and

WHEREAS, the FMCSA regional emergency declaration covers the following states and jurisdictions: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, the Commonwealth of Puerto Rico, the Territory of the U.S. Virgin Islands.

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

Section 1.

I hereby declare that a state of emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19), exists in the State of North Carolina due to anticipated, widespread transportation delays of necessary emergency relief supplies and services to areas in the Hurricane's path.

For purposes of this Executive Order, the emergency area is the entire State of North Carolina ("the Emergency Area").

Section 2.

The North Carolina Department of Public Safety ("DPS"), in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381.

Section 3.

DPS, in conjunction with DOT, shall waive certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 20-86.1 and 20-382, and certain registration and filing requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles transporting equipment and supplies for the restoration of utility services and transportation facilities, and vehicles carrying essentials and equipment for any debris removal in support of emergency relief efforts or services for Hurricane Dorian in the State of Florida and the southeast United States, the Commonwealth of Puerto Rico and the Territory of the U.S. Virgin Islands. Furthermore, pursuant to N.C. Gen. Stat. § 20-118.1, DPS shall temporarily suspend weighing vehicles used to transport livestock, poultry, or crops ready to be harvested and feed to livestock and poultry in the Emergency Area.

Section 4.

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

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- c. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.
- d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having (i) a yellow banner on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters, 1.5 inches wide and (ii) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. When operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet 6 inches in width.

Section 5.

Vehicles referenced under Sections 3 and 4 of this Executive Order shall be exempt from the following registration requirements:

- a. The requirement to obtain a temporary trip permit and pay the associated \$50.00 fee listed in N.C. Gen. Stat. § 105-449.49.
- b. The requirement of filing a quarterly fuel tax return as the exemption in N.C. Gen. Stat. § 105-449.45(b)(1) applies.
- c. The registration requirements under N.C. Gen. Stat. § 20-382.1 concerning intrastate for-hire authority and N.C. Gen. Stat. § 20-382 concerning interstate for-hire authority; however, vehicles shall maintain the required limits of insurance as required.
- d. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified by this Executive Order.

Section 6.

- a. The size and weight exemption for vehicles will be allowed on all DOT designated routes, except those routes designated as light traffic roads under N.C. Gen. Stat. § 20-118.

- b. This order shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72.

Section 7.

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

Section 8.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 2 through 7 of this Executive Order in a manner that does not endanger North Carolina motorists.

Section 9.

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

Section 10.

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

Section 11.

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38 in the Emergency Area.

Section 12.

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

Section 13.

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

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 30th day of August in the year of our Lord two thousand and nineteen.



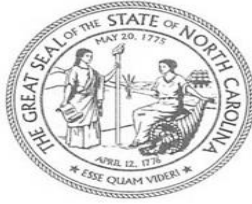
Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

August 31, 2019

EXECUTIVE ORDER NO. 101

DECLARATION OF A STATE OF EMERGENCY

BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

WHEREAS, the National Hurricane Center anticipates Hurricane Dorian (the Hurricane") may make landfall near or in the State of North Carolina; and

WHEREAS, the Hurricane will bring significant impacts to public and private property and may seriously disrupt essential utility services and systems; and

WHEREAS, the impacts from Hurricane Dorian constitute a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19); and

WHEREAS, certain measures are necessary to ensure the protection and safety of North Carolina residents and coordinate the emergency response among state and local entities and officials; and

WHEREAS, N.C. Gen. Stat. §§ 166A-19.10 and 166A-19.20 authorize the Governor to declare a state of emergency and exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies.

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

Section 1.

I hereby declare that a state of emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19), exists in the State of North Carolina.

The emergency area, as defined in N.C. Gen. Stat. §§ 166A-19.3(7) and 166A-19.20(b), is the State of North Carolina ("the Emergency Area").

Section 2.

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

Section 3.

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

Section 4.

Further, Secretary Hooks, as Chief Coordinating Officer for the State of North Carolina, shall exercise the powers prescribed in N.C. Gen. Stat. § 143B-602.

Section 5.

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

Section 6.

I hereby order that this declaration be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the state of emergency would prevent or impede this; and (3) distributed to others as necessary to ensure proper implementation of this declaration.

Section 7.

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

Section 8.

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38 in the Emergency Area.

Section 9.

This declaration is effective immediately and shall remain in effect until rescinded.

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



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

August 31, 2019

EXECUTIVE ORDER NO. 102

**TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO ENSURE
RESTORATION OF UTILITY SERVICES AND THE TRANSPORTATION OF
ESSENTIALS**

WHEREAS, the potential impacts from Hurricane Dorian (the "Hurricane") will require the transportation of vehicles bearing equipment and supplies for utility restoration and debris removal, carrying essentials such as food and medicine, transporting livestock and poultry and feed for livestock, poultry and crops ready to be harvested through North Carolina highways; and

WHEREAS, I have declared that a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19) exists due to the potential impacts from the Hurricane; and

WHEREAS, the emergency area as defined in N.C. Gen. Stat. §§ 166A-19.3(7) and 166A-19.20(b) is the entire State of North Carolina; and

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

WHEREAS, the prompt restoration of utility services is essential to the safety and well-being of the state's residents; and

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

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

WHEREAS, I have found that residents will likely suffer further widespread damage within the meaning of N.C. Gen. Stat. §§ 166A-19.3(3) and 166A-19.21(b); and

WHEREAS, with the concurrence of the Council of State, I hereby waive the registration requirements of N.C. Gen. Stat. §§ 20-86.1 and 20-382, the fuel tax requirements of N.C. Gen. Stat. § 105-449.47, and the size and weight requirements of N.C. Gen. Stat. §§ 20-116, 20-118 and 20-119 that would apply to vehicles carrying emergency relief supplies or services to assist Hurricane victims; and

WHEREAS, I have found that the state's residents may suffer losses and will likely suffer imminent further widespread damage within the meaning of N.C. Gen. Stat. §§ 166A-19.3(3) and 166A-19.21(b); and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70(g), upon the recommendation of the North Carolina Commissioner of Agriculture and the existence of an imminent threat of severe economic loss of livestock, poultry or crops ready to be harvested, I have directed the North Carolina Department of Public Safety ("DPS") to temporarily suspend weighing vehicles used to transport livestock, poultry, or crops ready to be harvested; and

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

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70, the undersigned may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C. Gen. Stat. § 20-381 should be waived for (1) persons transporting essential fuels, food, water, medical supplies, and feed for livestock and poultry, (2) persons transporting livestock, poultry, and crops ready to be harvested and (3) vehicles used in the restoration of utility services; and

WHEREAS, pursuant to 2019 N.C. Sess. Laws 2019-187 § 1, non-resident businesses and non-resident employees are exempt from registration requirements and various state tax requirements if (1) they come into the state at the request of a critical infrastructure company as defined in section 1.a of 2019 N.C. Sess. Laws 2019-187 and (2) are performing disaster-related work during a disaster or emergency response period; and

WHEREAS, pursuant to N.C. Sess. Laws 2019-187 § 2, the Secretary of the North Carolina Department of Revenue shall issue a temporary license to an applicant to import, export, distribute, or transport motor fuel in this state in response to a disaster or emergency declaration; and

WHEREAS, such temporary license shall expire upon the expiration of the disaster or emergency declaration; and

WHEREAS, on August 29, 2019, the Federal Motor Carrier Safety Administration ("FMCSA") issued a regional emergency declaration, FMCSA No. 2019-005, pursuant to 49 C.F.R. § 390.23 to provide regulatory relief for commercial motor vehicle operations under 49 C.F.R. Parts 390-399, if such operations are directly supporting Hurricane emergency relief efforts through the transportation of supplies, fuel, equipment, and persons or the provision of emergency services; and

WHEREAS, the FMSCA regional emergency declaration covers the following states and jurisdictions: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, the Commonwealth of Puerto Rico, the Territory of the U.S. Virgin Islands.

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

Section 1.

For purposes of this Executive Order, the emergency area is the State of North Carolina ("the Emergency Area").

Section 2.

DPS, in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381.

Section 3.

DPS, in conjunction with DOT, shall waive certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 20-86.1 and 20-382, and certain registration and filing requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles transporting equipment and supplies for the restoration of utility services and transportation facilities, and vehicles carrying essentials and equipment for any debris removal. Pursuant to N.C. Gen. Stat. § 20-118.1, DPS shall temporarily suspend weighing vehicles used to transport livestock, poultry, or crops ready to be harvested and feed to livestock and poultry in the Emergency Area.

Section 4.

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

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- c. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.
- d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having (i) a yellow banner on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters, 1.5 inches wide and (ii) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. When operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet 6 inches in width.

Section 5.

Vehicles referenced under Sections 3 and 4 of this Executive Order shall be exempt from the following registration requirements:

- a. The requirement to obtain a temporary trip permit and pay the associated \$50.00 fee listed in N.C. Gen. Stat. § 105-449.49.
- b. The requirement of filing a quarterly fuel tax return as the exemption in N.C. Gen. Stat. § 105-449.45(b)(1) applies.
- c. The registration requirements under N.C. Gen. Stat. § 20-382.1 concerning intrastate for-hire authority and N.C. Gen. Stat. § 20-382 concerning interstate for-hire authority; however, vehicles shall maintain the required limits of insurance.
- d. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified in this Executive Order.

Section 6.

- a. The size and weight exemption for vehicles will be allowed on all DOT designated routes, except those routes designated as light traffic roads under N.C. Gen. Stat. § 20-118.
- b. This Executive Order shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72.

Section 7.

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

Section 8.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 2 through 7 of this Executive Order in a manner that does not endanger North Carolina motorists.

Section 9.

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

Section 10.

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

Section 11.

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38 in the Emergency Area.

Section 12.

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

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



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

September 2, 2019

EXECUTIVE ORDER NO. 103

**SUSPENDING COLLECTION OF CERTAIN TOLLS ON FERRIES
TRANSPORTING RESIDENTS AND DISASTER RELIEF SUPPLIES TO AND
FROM AREAS IMPACTED BY HURRICANE DORIAN**

WHEREAS, the National Hurricane Center anticipates Hurricane Dorian ("the Hurricane") to make landfall near or in the State of North Carolina; and

WHEREAS, the Hurricane may place North Carolina residents and visitors at substantial risk of death or injury; and

WHEREAS, the Hurricane has the potential to inflict significant damage on public and private property and disrupt the supply of goods, materials, equipment, and essentials necessary for response and recovery operations; and

WHEREAS, impacts from the Hurricane constitute a State of Emergency, as defined in N.C. Gen. Stat. § 166A-19.3(19); and

WHEREAS, N.C. Const. art. III § 5(4) vests the undersigned with the duty to take care that the laws be faithfully executed; and

WHEREAS, the undersigned issued Executive Order No. 101 on 31 August 2019, which declares a State of Emergency to provide for the health, safety, and welfare of residents and visitors located in impacted North Carolina counties ("Executive Order 101" or "Declaration of a State of Emergency"); and

WHEREAS, Executive Order 101 invokes the North Carolina Emergency Management Act (the "Emergency Management Act"), and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, further action is necessary to ensure that existing ferry routes can accommodate residents evacuating from areas potentially impacted by the Hurricane; and

WHEREAS, pursuant to N.C. Gen. Stat. § 136-82(b)(2), (c), the North Carolina Board of Transportation ("the Board") is authorized to set and revise ferry tolls for the Southport-Fort Fisher, the Cedar Island-Ocracoke, and the Swan Quarter-Ocracoke routes, along with the passenger-only Hatteras-Ocracoke route ("the Routes"); and

WHEREAS, pursuant to N.C. Gen. Stat. § 136-82(b)(2), the Board adopted a resolution on 4 February 2016 setting the tolls on the Routes, which is currently in effect ("the Resolution"); and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b) authorizes and empowers the undersigned to make and amend orders, rules, and regulations within the limits of the authority conferred upon him in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) specifically authorizes the undersigned to delegate his powers and authority under the Emergency Management Act and to provide for the sub-delegation of any such authority; and

WHEREAS, the execution of the undersigned's emergency powers under N.C. Gen. Stat. § 166A-19.30 is appropriate to ensure the public safety of North Carolina residents and visitors during the State of Emergency; and

WHEREAS, in order to take care of important public safety requirements, the undersigned has made the determination that it is in the State's interest to suspend the collection of the ferry tolls set forth in the Resolution (the "Tolls") so as to facilitate the safe, expeditious passage of residents and the transportation of disaster relief supplies to areas impacted by the Hurricane.

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

Section 1.

I hereby order the North Carolina Ferry Division of the North Carolina Department of Transportation ("Ferry Division") to suspend collection of the Tolls.

Section 2.

- a. I delegate to James H. Trogdon, III, the Secretary of the North Carolina Department of Transportation (the "Secretary"), or his designee, all power and authority granted to and required of me by the Emergency Management Act for the purpose of directing the Ferry Division to recommence collecting Tolls when the time arises.
- b. The Secretary, or his designee, may utilize any of the means set forth in Section 3 of this Executive Order to ensure the general public is apprised of the fact that the collection of Tolls has recommenced.
- c. Notwithstanding Section 2.a of this Executive Order, the Secretary, or his designee, shall direct the Ferry Division to recommence the collection of Tolls no later than 16 September 2019.

Section 3.

I hereby order that this Executive Order be: (a) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) promptly filed with the Ferry Division, and published on the Ferry Division's website, and at all Ferry Division offices and locations; and (c) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 4.

This Executive Order is effective immediately and shall remain in effect until 16 September 2019. An Executive Order rescinding the Declaration of State of Emergency will

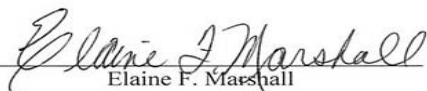
automatically rescind this Executive Order.

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



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

September 3, 2019

EXECUTIVE ORDER NO. 104

MANDATORY EVACUATION ORDER FOR ALL NORTH CAROLINA ISLANDS

WHEREAS, the State of North Carolina is under imminent threat from Hurricane Dorian ("Hurricane"), which is anticipated to pass or make landfall on or about the evening of September 4, 2019; and

WHEREAS, it is expected that those in the Hurricane's path will be exposed to a substantial risk of injury or death; and

WHEREAS, it is also expected that the Hurricane will cause significant damage to public and private property and may seriously disrupt essential utility services and systems; and

WHEREAS, the potential impacts from the Hurricane constitute a State of Emergency, as defined in N.C. Gen. Stat. § 166A-19.3(16); and

WHEREAS, the undersigned issued Executive Order No. 101 on August 31, 2019, declaring a State of Emergency; and

WHEREAS, Executive Order No. 101 further invokes the Emergency Management Act which authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, the undersigned requested an emergency declaration from the President of the United States on September 2, 2019, to provide for Public Assistance and direct Federal Assistance to the state, as those terms are used by the Federal Emergency Management Agency; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b) authorizes and empowers the undersigned to make and amend orders, rules, and regulations within the limits of the authority conferred upon the undersigned in the Emergency Management Act; and

WHEREAS, the execution of emergency powers under N.C. Gen. Stat. § 166A-19.30 is appropriate to ensure the public safety of residents and visitors located in the state; and

WHEREAS, coastal municipalities and counties have begun the process of issuing evacuation orders in advance of the Hurricane's anticipated movement along the North Carolina coast; and

WHEREAS, the undersigned strongly recommends that residents and visitors follow the evacuation orders issued by North Carolina counties and municipalities; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(1), the undersigned has determined with the concurrence of the Council of State, that a state-ordered evacuation is

necessary for the preservation of life in the surrounding threatened areas or for other emergency mitigation, response, and recovery efforts.

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

Section 1.

I hereby declare that a mandatory evacuation order is in effect for all people residing or visiting the islands located on the coast of the State of North Carolina, including the barrier islands of the state. For purposes of this Executive Order, island is defined as "a piece of land completely surrounded by water."

Section 2.

This Executive Order does not apply to emergency personnel who are operating on the islands to secure public safety or infrastructure requirements, or to acute and emergency medical care providers.

Section 3.

Municipalities and counties have the delegated authority to implement this Executive Order pursuant to N.C. Gen. Stat. § 166A-19.31.

Section 4.


- a. This Executive Order is effective at 8:00 a.m. on September 4, 2019, unless a different evacuation time has been ordered by local government officials. In such instances, the time ordered for evacuation by local government officials shall apply so long as that evacuation time is before 8:00 a.m. on September 4, 2019.
- b. This Executive Order shall remain in effect until rescinded or superseded by another applicable Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 3rd day of September in the year of our Lord two thousand and nineteen.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER

GOVERNOR

September 5, 2019

EXECUTIVE ORDER NO. 105

**TEMPORARY WAIVER FOR LICENSURE REQUIREMENTS TO FACILITATE
OUT-OF-STATE HEALTH CARE PROFESSIONALS TO TREAT VICTIMS OF
HURRICANE DORIAN**

WHEREAS, Hurricane Dorian ("Hurricane") is expected to impact the State of North Carolina beginning September 5, 2019; and

WHEREAS, it is expected that those in the Hurricane's path will be exposed to a substantial risk of injury or death; and

WHEREAS, the potential impacts from the Hurricane constitute a State of Emergency, as defined in N.C. Gen. Stat. §166A-19.3(19); and

WHEREAS, the undersigned issued Executive Order No. 101 on August 31, 2019, declaring a State of Emergency ("Declaration of a State of Emergency" or "State of Emergency"); and

WHEREAS, Executive Order No. 101 further invokes the North Carolina Emergency Management Act ("Emergency Management Act") which authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, the President of the United States issued an emergency declaration for the State of North Carolina, FEMA-3423-EM, on September 3, 2019, which provides, in part, for Public Assistance — Category B, including direct Federal Assistance to the State; and

WHEREAS, the State of Emergency implicates emergency public health needs and there is a compelling state interest to ensure that Hurricane victims receive the health care necessary to address their immediate needs and alleviate human suffering; and

WHEREAS, the North Carolina Division of Emergency Management, on behalf of the undersigned, has requested assistance through the Emergency Management Assistance Compact to provide needed emergency personnel, equipment, materials and supplies; and

WHEREAS, licensed health care professionals from other states have the capacity and ability to come to North Carolina to assist in addressing the health care needs of Hurricane victims; and

WHEREAS, the North Carolina Medical Board ("NCMB"), pursuant to N.C. Gen. Stat. § 90-12.5, has the authority to permit physicians not licensed in North Carolina to practice medicine in this State; and

WHEREAS, the NCMB has passed rules permitting licensed medical professionals under its jurisdiction to enter the state without a North Carolina medical license in order to address the urgent health care needs of people affected by the Hurricane; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned is authorized and empowered to make, amend, or rescind the necessary orders, rules, and regulations within the limits of the authority conferred through the Emergency Management Act with due consideration of the policies of the federal government; and

WHEREAS, in order to address important public health needs and requirements, the undersigned, with the concurrence of the Council of State, has made the determination that it is in the state's interest to ensure that licensed health care professionals may assist in disaster recovery within the state in accordance with N.C. Gen. Stat. § 166A-19.30(b)(4); and

WHEREAS, the undersigned, in consultation with the Secretary of the North Carolina Department of Health and Human Services, has determined that there is a critical need for licensed health care professionals, including, but not limited to, doctors, nurses, psychologists, professional counselors, clinical social workers, and substance abuse treatment professionals to be available to treat Hurricane victims.

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

Section 1. (Definitions — for the purposes of this Executive Order only)

- a. A person is a psychologist if that person uses any title or description of services incorporating the words “psychology”, “psychological”, “psychologic”, or “psychologist”, demonstrates that he or she possesses expert qualification in any area of psychology, and provides, or offers to provide, services defined as the practice of psychology and is licensed to practice psychology in another state, district, or territory of the United States.
- b. A person is a licensed clinical social worker if that person demonstrates that he or she possesses expert qualification in the area of clinical social work, provides or offers to provide clinical social work services, by whatever means of communication, to persons, including the professional application of social work theory and methods to the diagnosis, treatment, and prevention of emotional and mental disorders, and is licensed to practice clinical social work in another state, district, or territory of the United States.
- c. A person is a licensed professional counselor if that person demonstrates that he or she possesses expert qualification in the area of counseling, provides or offers to provide services defined as the practice of counseling, and is licensed to practice counseling in another state, district, or territory of the United States.
- d. A person is a licensed or certified substance abuse treatment professional if that person demonstrates that he or she possesses expert qualification in the area of substance abuse services, provides or offers to provide, substance abuse services, including assessment, evaluation, counseling, and therapeutic services to persons suffering from substance abuse or dependency, and is licensed or certified to provide substance abuse services in another state, district, or territory of the United States.

Section 2.

The North Carolina state licensure rules and regulations for health care professionals and personnel are hereby suspended to the limited extent necessary to allow those psychologists, professional counselors, clinical social workers, and substance abuse treatment professionals who are currently licensed or certified in other states, but not in North Carolina, to enter and work in the State of North Carolina for the purpose of providing health services within the reasonable scope of their licensure or certification, skills, training and ability to treat the immediate health care needs of Hurricane victims in North Carolina.

Any other applicable laws shall not be enforced to the limited extent necessary to allow the provision of health services consistent with this Executive Order.

Section 3.

Only licensed psychologists, licensed clinical social workers, licensed professional counselors and licensed or certified substance abuse professionals who hold unrestricted licenses or certifications (as applicable) in good standing with the licensing board of the state, district, or territory of the United States where the individual practices their aforementioned profession (collectively, “Qualified Health Care Professionals”) shall be permitted to offer services to individuals in North Carolina under the authority of this Executive Order.

Section 4.

Each out-of-state Qualified Health Care Professional offering and providing services in the State of North Carolina by authority of this Executive Order shall practice in good faith and within the reasonable scope of his or her license or certification (as applicable) and skills, training, and ability for a period not to exceed thirty (30) days.

Section 5.

To the limited extent necessary to effectuate this Executive Order allowing out-of-state Qualified Health Care Professionals to provide services in the State of North Carolina to address the immediate health care needs of Hurricane victims, the provisions of N.C. Gen. Stat. § 90-270.17 (licensed psychologist), N.C. Gen. Stat. § 90B-12 (licensed clinical social worker), N.C. Gen. Stat. § 90-341 (licensed professional counselor) and N.C. Gen. Stat. § 90-113.43 (licensed or certified substance abuse counselor) shall not be enforced for the duration of this Executive Order.

Section 6.

To the limited extent necessary to effectuate this Executive Order allowing out-of-state Qualified Health Care Professionals to provide services in the State of North Carolina to address the immediate health care needs of Hurricane victims, the rules and regulations relating to the enforcement of the statutes identified in Section 5 are hereby waived in accordance with the undersigned's authority under the Emergency Management Act and shall not be enforced for the duration of this Executive Order.

Section 7.

The North Carolina Psychology Board, the North Carolina Board of Licensed Professional Counselors, the North Carolina Social Work Certification and Licensure Board, and the North Carolina Substance Abuse Professional Practice Board have been consulted regarding this Executive Order and concur in its issuance.

Section 8.

This Executive Order does not suspend or waive North Carolina State licensure rules and regulations for other types of health care professionals issued by North Carolina occupational licensing boards which have established regulations and/or processes in place to allow licensed health care professionals in good standing in other states, districts, or territories of the United States to provide emergency health services to treat the immediate health care needs of Hurricane victims in North Carolina.

The NCMB and the North Carolina Nursing Board are encouraged to consider waiving any applicable licensure requirements under North Carolina law to allow qualified medical and nursing professionals licensed and in good standing in other states, districts, or territories of the United States to provide emergency health services to treat the immediate health care needs of Hurricane victims in North Carolina.

Section 9.


This Executive Order is effective immediately and shall remain in effect until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 5th day of September in the year of our Lord two thousand and nineteen.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



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

TITLE 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Department of Natural and Cultural Resources intends to readopt without substantive changes the rules cited as 07 NCAC 13F .0202, .0303, and .0304.

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

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncparks.gov/park-rules>

Proposed Effective Date: February 1, 2020

Public Hearing:

Date: October 16, 2019

Time: 1:00 p.m.

Location: North Carolina Department of Natural and Cultural Resources Auditorium, 109 E. Jones Street, Raleigh, NC 27601

Reason for Proposed Action: *The Natural and Scenic Rivers Act of 1971 (G.S. 143B-135.140 through G.S. 143B-135.172) institutes a North Carolina natural and scenic rivers system and prescribes methods for inclusion of components to the system from time to time. At present, segments of four rivers have been designated as components of the system: the New River in Ashe and Alleghany counties; the Linville River in Avery and Burke counties; the Horse pasture River in Transylvania County; and the Lumber River in Hoke, Scotland, Robeson and Columbus counties.*

The existing rules adequately describe criteria for designation and management of natural and scenic river areas, and no changes to the rules are proposed. The rules are submitted for readoption without changes.

Comments may be submitted to: Carol Tingley, NC Division of Parks and Recreation, 1615 Mail Service Center, Raleigh, NC 27699-1615

Comment period ends: December 2, 2019

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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 13 - PARKS AND RECREATION AREA RULES

SUBCHAPTER 13F - NATURAL AND SCENIC RIVERS PROGRAM

SECTION .0200 - SECTION .0200 - CRITERIA FOR CLASSIFICATION AND DESIGNATION

07 NCAC 13F .0202 CRITERIA FOR DESIGNATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0300 - CRITERIA FOR MANAGEMENT

07 NCAC 13F .0303 MANAGEMENT OF NATURAL RIVER AREAS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

07 NCAC 13F .0304 MANAGEMENT OF SCENIC RIVER AREAS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Department of Health and Human Services intends to readopt with substantive changes the rule cited as 10A NCAC 15 .1102 and readopt without substantive changes the rule cited as 10A NCAC 15 .1106.

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

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://info.ncdhhs.gov/dhsr/ruleactions.html>

Proposed Effective Date: March 1, 2020

Public Hearing:

Date: November 13, 2019

Time: 10:00 a.m.

Location: Dorothea Dix Park, Edgerton Building, Room 026, 809 Ruggles Drive, Raleigh, NC 27603

Reason for Proposed Action: Pursuant to GS 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years or they shall expire. As a result of the periodic review of Chapter 10A NCAC 15, Radiation Protection, these two proposed readoption rules were determined as "Necessary With Substantive Public Interest," requiring readoption. Rule 10A NCAC 15 .1102 is proposed for readoption with substantive changes to update division and department name through technical changes and add the option for online fee payment for licensees and registrants. Rule 10A NCAC 15 .1106 is proposed for readoption without substantive changes with no change to the text of the rule because of an amendment to this rule that became effective 5/1/19.

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

Comment period ends: December 2, 2019

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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☒ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☒ Approved by OSBM

☒ No fiscal note required

CHAPTER 15 - RADIATION PROTECTION

SECTION .1100 - FEES

10A NCAC 15 .1102 PAYMENT DUE

(a) All fees established in this Section shall be due on the first day of July of each year.

(b) Notwithstanding Paragraph (a) of this Rule, when a new license or registration is issued by the agency after the effective date of this Rule or after the first day of July of any subsequent year, the initial fee shall be due on the date of issuance of the license or registration.

(c) The initial fee in Paragraph (b) of this Rule shall be computed as follows:

- (1) When any new license or registration is issued before the first day of January of any year, the initial fee shall be the full amount specified in Rule .1105 or .1106 of this Section; and
- (2) When any new license or registration is issued on or after the first day of January of any year, the initial fee shall be one-half of the amount specified in Rule .1105 or .1106 of this Section.

(d) All fees received by the agency pursuant to provisions of this Section shall be nonrefundable.

(e) Each licensee or registrant shall pay all fees online at <https://www.thepayplace.com/northcarolinadhhs/dhsr/ncrpsfees/challenge.aspx>, or by check or money order made payable to "Radiation Protection Section" and mail such payment to: Radiation Protection Section, Division of ~~Environmental Health~~, ~~Department of Environment and Natural Resources~~, 1645 Mail Service Center, Raleigh, North Carolina 27699-1645. Such payment may be delivered to the agency at its office located at ~~3825 Barrett Drive, Raleigh, North Carolina 27609-7224~~. Health Service Regulation, Department of Health and Human Services to the address shown on the facility invoice.

Authority G.S. 104E-9(a)(8); 104E-19(a).

10A NCAC 15 .1106 RADIOACTIVE MATERIALS AND ACCELERATOR FEE AMOUNTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g that the Marine Fisheries Commission intends to readopt with substantive changes the rules cited as 15A NCAC 03M .0509; and 03O .0108.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://portal.ncdenr.org/web/mf/mfc-proposed-rules-links>

Proposed Effective Date: Subject to Legislative Review per S.L. 2019-198.

Public Hearing:

Date: October 23, 2019

Time: 6:00 p.m.

Location: Division of Marine Fisheries, 5285 Highway 70 West, Morehead City, NC 28557

Reason for Proposed Action: *The agency proposed two rules for readoption in accordance with G.S. 150B-21.3A for the Periodic Review and Expiration of Existing Rules. This is the second of four packages of rules in 15A NCAC 03 for readoption over a four-year period. Proposed text shows conforming and minor technical changes to the rules. Additional changes are proposed to 15A NCAC 03M .0509 to make it unlawful to puncture or harvest tarpon, but to still allow catch and release. These changes are proposed to improve the survival of the fish. Additional changes are proposed to 15A NCAC 03O .0108 to allow transfers of Standard Commercial Fishing Licenses (SCFL) or Retired SCFL's under specific conditions, in addition to the conditions set forth in G.S. 113-168.2. These proposed changes provide flexibility for businesses to complete license transfers under specific conditions; the changes also add additional immediate family members as individuals eligible to receive a transferred license.*

Comments may be submitted to: Catherine Blum, P.O. Box 769, Morehead City, NC 28557; phone (252) 808-8014; email catherine.blum@ncdenr.gov

Comment period ends: December 2, 2019

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☒ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

CHAPTER 03 - MARINE FISHERIES

SUBCHAPTER 03M - FINFISH

SECTION .0500 – OTHER FINFISH

15A NCAC 03M .0509 TARPON

(a) It is ~~shall be~~ unlawful to ~~sell~~ possess, ~~sell~~, or offer for sale tarpon.

~~(b) It is unlawful to possess more than one tarpon per person taken in any one day.~~

~~(c)(b)~~ It is ~~shall be~~ unlawful to take tarpon by any method other than ~~hook and line~~. hook and line.

(c) It shall be unlawful to gaff, spear, or puncture a tarpon.

Authority G.S. 113-134; 113-182; ~~113-221; 143B-289.4; 143B-289.52.~~

SUBCHAPTER 03O - LICENSES, LEASES, FRANCHISES AND PERMITS

SECTION .0100 - LICENSES

15A NCAC 03O .0108 LICENSE AND COMMERCIAL FISHING VESSEL REGISTRATION TRANSFERS

(a) To transfer a license or Commercial Fishing Vessel Registration, the license or registration cannot be expired prior to transfer.

(b) Upon transfer of a license or Commercial Fishing Vessel Registration, the transferee becomes the licensee and assumes the privileges of holding the license or Commercial Fishing Vessel Registration.

(c) A transfer application including a certification statement form shall be provided by the Division of Marine Fisheries. A transfer application shall be completed for each transfer including, but not limited to:

- (1) the information required as set forth in Rule .0101(a) of this Section;
- (2) a certified statement from the transferee listing any violations involving marine and estuarine resources in the State of North Carolina during the previous three years; and
- (3) a certified statement from the transferee that the information and supporting documentation submitted with the transfer application is true and correct, and that the transferee acknowledges that it is unlawful for a person to accept transfer of a license for which they are ineligible.

(d) A properly completed transfer application shall be returned to an office of the Division by mail or in person, except as set forth in Paragraph (e) of this Rule.

(e) A transfer application submitted to the Division without complete and required information shall be deemed incomplete and shall not be considered further until resubmitted with all required information. Incomplete applications shall be returned to the applicant with deficiency in the application so noted.

~~(a)(f) Licenses~~ A License to Land Flounder from the Atlantic Ocean ~~may~~ shall only be transferred:

- (1) with the transfer of the ownership of a vessel that the licensee owns that individually met the eligibility requirements of ~~15A NCAC 3O .0101 (b)(1)(A) and (b)(1)(B)~~ Rule .0101(b)(1)(A) and (b)(1)(B) of this Section to the new owner of that vessel. ~~Transfer of the License to Land Flounder from the Atlantic Ocean transfers all flounder landings from the Atlantic Ocean associated with that vessel; or~~
- (2) by the owner of a vessel to another vessel under the same ownership.

Transfer of a License to Land Flounder from the Atlantic Ocean transfers with it all flounder landings from the Atlantic Ocean associated with that vessel. Any transfer of license under this Paragraph may shall only be processed through the Division of Marine Fisheries Morehead City Headquarters Office and no transfer is effective until approved and processed by the Division.

~~(b)(g) Transfer of a Commercial Fishing Vessel Registration~~ Transfer. Registration: When if transferring ownership of a vessel

bearing a current ~~commercial fishing vessel registration~~, Commercial Fishing Vessel Registration, the new ~~owner~~ owner:

(1) shall follow the requirements in ~~15A NCAC 03O .0101~~ Rule .0101 of this Section and pay a replacement fee ~~of ten dollars (\$10.00)~~ as set forth in Rule .0107 of this Section for a replacement ~~commercial fishing vessel registration~~, Commercial Fishing Vessel Registration; and

(2) ~~The new owner must~~ shall submit a transfer form application ~~provided by the Division~~ with the signatures of the former ~~licensee~~ owner and the ~~signature of the new licensee~~ owner notarized.

(e)(h) Transfer of a Standard or Retired Standard Commercial Fishing License transfers: License:

(1) It is unlawful for a person to accept transfer of a Standard or Retired Standard Commercial Fishing License for which they are ineligible.

(+)(2) A Standard or Retired Standard Commercial Fishing License ~~may~~ shall only be transferred if both the transferor and the transferee have no current suspensions or revocations of any Marine Fisheries license privileges. In the event of the death of the transferor, this requirement shall only apply to the transferee.

(3) For purposes of effecting transfers under this Paragraph:

(A) in addition to those family members defined in G.S. 113-168(3a), "immediate family" shall mean grandparents, grandchildren, and legal guardians of an individual;

(B) "business" shall mean corporations and limited liability companies that have been registered with the Secretary of State; and

(C) "owner" shall mean owner, shareholder, or manager of a business.

(2)(4) At the time of the transfer of a Standard or Retired Standard Commercial Fishing License, the transferor ~~must~~ shall indicate the retainment or transfer of the landings history associated with that Standard or Retired Standard Commercial Fishing License. The transferor may retain a landings history only if the transferor holds an additional Standard or Retired Standard Commercial Fishing License. Transfer of a landings history is all or none.

(3)(5) To transfer a Standard or Retired Standard Commercial Fishing License, the following information is required:

(A) ~~information on the transferee as set out~~ forth in 15A NCAC 03O .0101; Rule .0101 of this Section;

(B) ~~notarization of the current license holder's~~ transferor's and the transferee's signatures on a the transfer

~~form provided by the Division; application; and~~

(C) ~~when the transferee is a non-resident, a written certified statement from the applicant listing any violations involving marine and estuarine resources during the previous three years;~~

(D)(C) ~~when if~~ if the transferor is retiring from commercial fishing, ~~the transferor must submit~~ must evidence showing that such retirement has in fact occurred, ~~for example, which may include, but is not limited to,~~ evidence of the transfer of all licensee's the transferor's Standard Commercial Fishing Licenses, sale of all the licensee's transferor's registered vessels, or discontinuation of any active involvement in commercial fishing.

~~Properly completed transfer forms must be returned to Division Offices by mail or in person.~~

(4)(6) The Standard or Retired Standard Commercial Fishing License ~~which that~~ is being transferred ~~must shall~~ shall be surrendered to the Division at the time of the transfer application.

(5)(7) Fees:

(A) ~~Transferee The transferee must shall~~ The transferee must shall pay a replacement fee ~~of ten dollars (\$10.00), as set forth in Rule .0107 of this Section.~~

(B) ~~Transferee The transferee must shall~~ The transferee must shall pay the differences in fees as specified in G.S. ~~413-168.2 (e) 113-168.2(e) or G.S. 413-168.3 (b) 113-168.3(b)~~ when if the transferee ~~who is a non-resident is being transferred a resident Standard or Retired Standard Commercial Fishing License. non-resident.~~

(C) ~~Transferee The transferee must shall~~ The transferee must shall pay the differences in fees as specified in G.S. ~~413-168.2 (e) 113-168.2(e)~~ when if the license to be transferred is a Retired Standard Commercial Fishing License and the transferee is less than 65 years old.

(8) Transfer of Standard or Retired Standard Commercial Fishing License for a Business:

(A) An individual holding a Standard or Retired Standard Commercial Fishing License may transfer their license to a business in which the license holder is also an owner of the business in accordance with application requirements as set forth in Rule .0101(a) of this Section.

- (B) If a business is dissolved, the business may transfer the license or licenses of the business to an individual owner of the dissolved business. A dissolved business holding multiple licenses may transfer one license or multiple licenses to one owner or multiple owners or any combination thereof. A notarized statement showing agreement for the transfer of all owners of the business is required to complete this transaction.
- (C) If a business is sold, the business may transfer the license or licenses of the business to the successor business at the time of sale.
- (D) If an owner leaves the business, any license originally owned by that owner may be transferred back to themselves as an individual at the time the owner leaves the corporation. A notarized statement showing agreement for the transfer of all owners of the business is required to complete this transaction.
- ~~(6)(9)~~ Transfer of Standard or Retired Standard Commercial Fishing License for a Deceased Licensee: Licensee:
- (A) ~~When the deceased licensee's~~ If an immediate surviving family member(s) member of the deceased licensee is eligible to hold the deceased's deceased licensee's Standard Commercial Fishing License License or Retired Standard Commercial Fishing License, the Administrator/Executor must give written notification within six months after the Administrator/Executor qualifies under ~~G.S. 28A to the Morehead City Office of the Division of Marine Fisheries~~ G.S. 28A to the Morehead City Office of the Division of Marine Fisheries of the request to transfer the ~~deceased's~~ deceased's license to the estate Administrator/Executor.
- (B) A transfer to the Administrator/Executor shall be made according to the provisions of Subparagraphs ~~(e)(2) — (e)(4)(2)~~ through (4) of this Rule. Paragraph. The Administrator/Executor must provide a copy of the deceased licensee's death certificate, a copy of the certificate of ~~administration~~ administration, and a list of eligible immediate family members to the ~~Morehead City Office of the Division of Marine Fisheries, Division.~~
- (C) The Administrator/Executor ~~may~~ shall only transfer a license in the

Administrator/Executor name on behalf of the estate to a an eligible surviving family member. The surviving family member transferee ~~may~~ shall only transfer the license to a third party purchaser of the deceased licensee's fishing vessel. Transfers shall be made according to the provisions of Subparagraphs ~~(e) 2— (e)(4)(2) through (4)~~ of this Rule. Paragraph.

- ~~(d) Transfer forms submitted without complete and required information shall be deemed incomplete and will not be considered further until resubmitted with all required information.~~
- ~~(e) It is unlawful for a person to accept transfer of a Standard or Retired Standard Commercial Fishing License for which they are ineligible.~~

Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.3; 113-168.6; 113-182; 143B-289.52.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10F .0306 and .0340.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncwildlife.org/Proposed-Regulations>

Proposed Effective Date: *May 1, 2020*

Public Hearing:

Date: *October 17, 2019*

Time: *10:00 a.m.*

Location: *WRC Headquarters, 5th Floor, 1751 Varsity Drive, Raleigh, NC 27606*

Reason for Proposed Action:

15A NCAC 10F .0306 *The Town of Carolina Beach submitted an application and Resolution requesting rulemaking for a no-wake zone in a portion of Myrtle Grove Sound on the eastern side, to mitigate boater safety hazards within 50 yards of the fueling docks and community pier at Oceana Marina and Carolina Beach Yacht Club and Marina, and within 50 yards of the shoreline in the congested area south of Carolina Beach Yacht Club and Marina to the intersection with the existing no-wake zone at Carolina Beach Yacht Basin. The U.S. Army Corps of Engineers concurs with placement of markers in this portion of the Intracoastal Waterway if the no-wake zone does not extend into the federal channel. The Town of Carolina Beach will purchase and place buoys and pilings and obtain the required CAMA permit. A Fiscal Note was submitted to OSBM and was approved by the WRC on 8-29-19.*

15A NCAC 10F .0340 *Currituck County submitted an application and Resolution for rulemaking for a no-wake zone within the canals at Wild Horse Estates at Carova Beach. Canals are shallow and narrow with sharp turns, creating boater safety*

hazards and hazards to recreationists in non-motorized vessels. Currituck County will purchase and place buoys and will obtain a CAMA permit. A Fiscal Note was submitted to OSBM and approved by the WRC on 8-29-2019.

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

Comment period ends: December 2, 2019

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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☒ State funds affected
- ☒ Local funds affected
- ☐ Substantial economic impact ($\geq \$1,000,000$)
- ☒ Approved by OSBM
- ☐ No fiscal note required

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0306 CAROLINA BEACH

(a) Regulated Area. This Rule applies to ~~those waters known as Carolina Beach Yacht Basin bounded on the north by a line perpendicular to Florida Avenue and intersecting marker number "2" in the channel of the yacht basin, and on the south by the terminus of the yacht basin at the Carolina Beach Municipal Marina.~~ the following waters in the Town of Carolina Beach:

- (1) Carolina Beach Yacht Basin shore to shore, south of a line from a point on the east shore at 34.05723 N, 77.88894 W to a point on the west shore at 34.05700 N, 77.89089 W; and
- (2) a portion of the Intracoastal Waterway in Myrtle Grove Sound within approximately 50 yards of the community pier and docks

surrounding marinas at the Oceana Marina and Carolina Beach Yacht Club, and extending south of the marinas within approximately 50 yards of the shoreline to the intersection with the no-wake zone at the Carolina Beach Yacht Basin.

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

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

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

15A NCAC 10F .0340 CURRITUCK COUNTY

(a) Regulated Areas. This Rule shall apply to the waters described as follows:

- (1) Bell Island. All canals on Bell Island.
- (2) Walnut Island. All canals in the Walnut Island subdivision in the Village of Grandy.
- (3) Waterview Shores subdivision. All canals in the Waterview Shores subdivision in the Village of Grandy.
- (4) Neal's Creek Landing. The waters of Neal's Creek within 50 yards of Neal's Creek Landing at the end of SR 1133, otherwise known as Neals Creek Road.
- (5) Tull Bay.
 - (A) The waters of the canal off of Tull Bay from its mouth to its end at Tulls Bay Marina, downstream and within the canal leading to Tull's Bay Marina.
 - (B) The canals of the Tulls Bay Colony subdivision in Moyock including the waters 50 yards north along the Mississippi Canal from its intersection with Elizabeth Canal.
- (6) Carova Beach. The canals at Wild Horse Estates Subdivision at Carova Beach, east of the entrance to the canals beginning at a line in Knotts Island Bay from a point on the north shore at 36.51431 N, 75.87652 W to a point on the south shore at 36.51238 N, 75.87761 W.

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

(c) Placement of Markers. The Board of Commissioners of Currituck County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

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

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 07 - CEMETERY COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Cemetery Commission intends to adopt the rule cited as 21 NCAC 07D .0108.

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

Proposed Effective Date: February 1, 2020

Public Hearing:

Date: November 13, 2019

Time: 11:00 a.m.

Location: 1001 Navaho Dr., Suite 207, Raleigh, NC 27609

Reason for Proposed Action: To define "corpus" as referenced in the Cemetery Act and clarify what constitutes a violation of corpus which is forbidden by the Cemetery Act: G.S. 65-61: No person shall withdraw or transfer any portion of the corpus of the care and maintenance trust fund without first obtaining written consent from the Commission.

Comments may be submitted to: Gantt Stephens, 1001 Navaho Dr., Suite 207, Raleigh, NC 27609; phone (919) 981-2536

Comment period ends: December 2, 2019

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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

SUBCHAPTER 07D - TRUST FUNDS

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

21 NCAC 07D .0108 WITHDRAWALS FROM PERPETUAL CARE TRUST FUNDS

(a) For purposes of this Rule, the following definitions shall apply:

- (1) "corpus amount" means the sum of:
 - (A) the amount of all deposits made to a trust fund at the inception of the trust fund; and
 - (B) the aggregate amount of all deposits made to the trust fund after the inception of the trust fund.
- (2) "deposits" means the deposits to trust funds required by G.S. 65-64.
- (3) "income" means interest income, dividend income, or any amount of capital gain income to the extent allowed to be withdrawn by the Commission, pursuant to this Rule.
- (4) "total market value" means the total market value of the assets in the trust fund, as reflected in the records of the trustee.
- (5) "trust fund" means a care and maintenance trust fund required by G.S. 65-61 or perpetual care trust fund required by G.S. 65-63.

(b) Without the prior written approval of the Commission, no amounts from a trust fund may be withdrawn from the trust fund if either:

- (1) at the time of the withdrawal, the total market value of the trust fund is less than the corpus amount at that time; or
- (2) immediately after the withdrawal is made, the total market value of the trust fund would be less than the corpus amount at that time.

Authority G.S. 65-49; 65-61.

CHAPTER 65 – BOARD OF RECREATIONAL THERAPY LICENSURE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Recreational Therapy Licensure intends to amend the rules cited as 21 NCAC 65 .0601, .0602, .0701, .0801, and .0902.

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

Proposed Effective Date: February 1, 2020

Public Hearing:

Date: October 21, 2019

Time: 10:45-11:15 a.m.

Location: Hilton Charlotte University Place, 8629 J M Keynes Drive Charlotte, NC 28262 University Ballroom, (NCRTA Conference)

Reason for Proposed Action:

21 NCAC 65 .0601 NCBRTL has followed national guidelines for continuing education limits however had not listed time limitation, see the need to clarify in Rules.

21 NCAC 65 .0602 NCBRTL wants a better definition and clarification of the "Grace Period " allowed after Renewal Due Date. Clears confusion overdue dates and expiration dates. States NCBRTL Compliance and Ethics training during first year and reporting with Renewal requirement.

21 NCAC 65 .0701 Clarifies the time limit of Reinstatement period and requirements.

21 NCAC 65 .0801 Allows for licensees to request and pay Inactive Status for longer amounts of time.

21 NCAC 65 .0902 Removes fees.

Comments may be submitted to: Becky Garrett, PO Box 2655, Durham, NC 27701; phone (336) 212-1133; email becky@ncbrtl.org

Comment period ends: December 2, 2019

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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ($\geq \$1,000,000$)
- ☐ Approved by OSBM
- ☒ No fiscal note required

SECTION 0600 - CONTINUING EDUCATION REQUIREMENTS

21 NCAC 65 .0601 CONTINUING EDUCATION REQUIREMENTS FOR LICENSED RECREATIONAL THERAPIST AND LICENSED RECREATIONAL THERAPY ASSISTANT

(a) During the two-year licensing period, a recreational therapist or recreational therapy assistant who is licensed by the North Carolina Board of Recreation Therapy Licensure shall complete continuing education as outlined below. Candidates for license renewal must complete a minimum of 20 hours of continuing education to renew the license. The renewal cycle is two years

prior to licensee's expiration date, 20 hours or 2.0 CEUs must be earned within these two years.

(b) Values shall be awarded as the follows:

- 0.1 CEU (Continuing Education Unit) = one contact hour
- 1.0 CEU (Continuing Education Unit) = ten hours
- 2.0 CEUs = 20 Hours of Continuing Education every two years

No credit will be awarded for sessions less than one hour in length.

Renewal Cycle is two years back from renewal due date

(c) Content of continuing education must be consistent with the current standards listed in the National Council for Therapeutic Recreation Council Job Analysis and any subsequent amendments or changes. A licensee shall acquire credit through professional service, continuing education courses, academic courses, and professional publications and presentations.

(d) A licensee seeking renewal earning continuing education credit approved by the International Council on Continuing Education (IACET) shall include documentation in licensees' renewal application showing credit earned, content, the licensee's name and attendance dates. A licensee seeking renewal credit for sessions not approved by IACET, must send documentation to show name, content, attendance and amount of credit earned. Documentation to support renewal credit earned for attending professional sessions shall be a transcript, certificate, letter from continuing education's provider's letter head or the licensee's employer's training log including the content, attendance dates, licensee's name and credit earned.

(e) A licensee seeking renewal credits for academic courses: shall submit official transcript with course(s) and credit earned. One semester hour = 15 hours.

(f) A licensee seeking renewal credits from professional publications and presentations shall earn no more than 10 hours in the area of professional publications and presentations. Credit shall not be given for repeat or multiple presentations of same seminar, publication, in-service, original paper or poster presentation during a renewal cycle. Credit shall be split equally between presenters. Documentation for publications shall be a copy of the title page, table of contents and publication date. Documentation for presentations shall be in the form of letter from sponsoring body stating the licensee's name, date, content and the length of presentation.

(g) Values for publications and presentations are as follows:

- (1) Authoring and publishing printed editorials
one hour
- (2) Authoring and publishing peer reviewed articles on original research
six hours
- (3) Authoring and publishing professional newsletter article
one hour
- (4) Editing a textbook of original work
four hours
- (5) Authoring and publishing a textbook chapter of original work
six hours
- (6) Authoring and publishing a peer reviewed journal article of professional practice
four hours
- (7) Authoring and publishing a journal reviews or book review
one hour

- (8) Presenting peer reviewed poster session
one hour
- (9) Authoring and publishing a research abstract
one hour
- (10) Authoring and publishing a textbook of original
work ten hours
- (11) Authoring unpublished masters or doctoral
thesis eight hours
- (12) Presenting one hour at professional meetings
two hours

(h) Licensees seeking renewal credit for field-placement intern supervision shall be granted credit for no more than two field placement students during a renewal cycle for three hours credit per intern. Submission of the NCBRTL Clinical Appraisal and Reference Summary Form is accepted documentation. The NCBRTL Clinical Appraisal and Reference Summary Form can be found on the Board website, www.ncbrtl.org

(g) Licensees shall attend the Board's Compliance and Ethics Training for four hours credit during their first year of licensure. Existing licensees may attend the Board's Compliance and Ethics training for four hours renewal credit.

(h) Licensees seeking renewal credit submission for on-line training shall submit as proof of completion a certificate, letter or transcript as follows:

- (1) documentation to show content of the session(s);
- (2) documentation to show licensees' date of completion of the session;
- (3) documentation to support amount of credit awarded; and
- (4) the website address of the sponsoring body.

(i) Licensee seeking renewal credit for professional Recreational Therapy board member service shall be documented by letter of service from the professional board stating the dates served. One hour credit shall be given for one year's service. If the year's service crosses over the licensee's renewal cycle, credit can be used for next renewal cycle.

Authority G.S. 90C-2; 90C-24(a)(3).

21 NCAC 65 .0602 RENEWAL REQUIREMENTS FOR LICENSED RECREATIONAL THERAPIST AND LICENSED RECREATIONAL THERAPY ASSISTANT

(a) Board staff shall send a renewal and fee notice to a licensee 60 days prior to the expiration date at the licensees' last known contact address listed on licensee's online profile unless a person has advised the Board that he or she does not intend to renew the license. Pursuant to Rule .0603 of this Section, it is the responsibility of the licensee to keep ~~his or her~~ licensee's address current on the ~~his or her~~ licensee's online profile on Board website, www.ncbrtl.org.

(b) Licenses issued shall be subject to renewal every two years and shall include documentation as referenced in Rule .0601 in this Section to support completion of continuing education requirements. A two-year cycle renews every two years on the licensee's birth month. A licensee must submit documentation referenced in Rule .0601 to NCBRTL postmarked or uploaded online by the 15th of the licensee's birth month.

(c) A Licensee who is due for renewal and wants to submit required documentation received after the 15th of licensee's birth month will be given a grace period until the 30th of the birth month. The grace period allows the NCBRTL Board to review submitted documentation and contact the licensee for any additional information and corrections. This grace period allows a Licensee to make any required corrections before the 30th, when a license becomes lapsed. During a grace period a Licensee may seek/attend conferences but must require board approval in order for the continuing education credits to count for licensee's current renewal documentation. Any Licensee who misses the 15th due date and applies to renew with a lapsed license (after the 30th) will be required to fill out a reinstatement application as stated in Rule .0701 of this Chapter.

~~(e)(d)~~ Each licensee shall complete and submit a renewal application, continuing education documentation and update color photo of the licensee. All materials shall be postmarked or submitted on his or her online profile on the Board website by the 15th of the licensee's birth month. If the renewal application and fee is not received or postmarked by the ~~30th~~ 15th of the licensee's birth month, the license shall ~~expire~~. expire on the 30th of licensee's birth month.

(e) First year Licensee's must complete a mandatory Compliance and Ethics Training offered by NCBRTL within their first year of issue date. Proof of attendance, given at training, must be included with Renewal application.

Authority G.S. 90C-24(a)(3); 90-29.

SECTION .0700 - REINSTATEMENT

21 NCAC 65 .0701 REINSTATEMENT OF LAPSED LICENSE

(a) A recreational therapist or a recreational therapy assistant whose license has lapsed and who desires reinstatement of that license must:

- (1) Complete a reinstatement ~~license~~ application form provided by the ~~Board~~; Board within 60 days of expiration;
- (2) Submit evidence of satisfaction of all court conditions resulting from any misdemeanor or felony conviction(s) if applicable;
- (3) Submit evidence of meeting education and competency requirements pursuant to Rule .0301 or Rule .0302 as applicable at the time of reinstatement;
- (4) Submit evidence of meeting continuing education requirements in accordance with Rule .0601; and
- (5) Submit payment of application fee and any missed licensure fees.

(b) Persons whose license is suspended for failure to renew, pursuant to G.S. 90C, must not practice recreational therapy and must not hold themselves out as licensed by the Board until they apply for and receive reinstatement of their license by the Board.

(c) The Board shall inform the applicant in writing of the Board's decision within 30 days after the application deadline and the Board finds the complete application shows the requirements have been successfully ~~met~~. met.

Authority G.S. 90C-24(a)(3); 90C-30.

SECTION .0800 – INACTIVE STATUS

21 NCAC 65 .0801 INACTIVE STATUS

(a) A licensee shall request inactive status by completing the Inactive Status Request Form, that includes the licensee's contact information, the number of year's requested, information and the reason for request and paying the fee set forth in Rule .0501 of this Chapter. The form is available through the Board or Board's website, www.ncbrtl.org.

(b) While on inactive status, an individual shall not practice recreational therapy in North Carolina.

(c) A Licensed Recreational Therapist or Licensed Recreational Therapy Assistant who has been on inactive status for a period of one year or less may convert to active status by:

- (1) Submission of a reinstatement application as set forth in Rule .0701 in this Chapter to the Board;
- (2) Completion of 10 continuing education hours, or the amount of hours as set forth in Rule .0601 in this Chapter for license renewal for a Licensed Recreational Therapist or Licensed Recreational Therapy Assistant; and
- (3) Payment of the license renewal fee.

(d) A Licensed Recreational Therapist or Licensed Recreational Therapy Assistant who has been on inactive status for a period greater than one year may convert to active status by:

- (1) Submission of a reinstatement application as set forth in Rule .0701 in this Chapter to the Board;
- (2) Completion of 10 continuing education hours per year of inactive status, or the amount of hours, as set forth in Rule .0601 in this Chapter for license renewal; and
- (3) Payment of the current license renewal fee.

(e) A Licensed Recreational Therapist who has been on inactive status for a period greater than five years may convert to active status by:

- (1) Submission of a reinstatement application as set forth in Rule .0701 in this Chapter to the Board; and
- (2) Submission of proof of passage of the examination as set forth in Rule .0301 in this Chapter.

(f) The Inactive request must be received on or before 15th of Licensee's birth month or due date.

Authority G.S. 90C-24(a)(3); 90C-31.

SECTION .0900 - RECIPROCITY

21 NCAC 65 .0902 MILITARY ENDORSEMENT

(a) The military trained applicant for licensure by endorsement shall make application to the Board by showing his or her

credentials are substantially equivalent or exceed the requirements for licensure, as set forth in Section .0300 of this Chapter.

(b) The application in Paragraph (a) of this Rule shall be accompanied by:

- (1) A color photograph;
- (2) Official college transcripts from all colleges attended;
- (3) Verification of passage of the Exam given by National Council for Therapeutic Recreation Certification;
- ~~(4) The licensure fee as set forth in Rule .0501 in this Chapter;~~
- ~~(5)~~(4) Verification of military training as a MOS Recreational Therapist or MOS Recreational Therapy Assistant;
- ~~(6)~~(5) Verification of two years of active practice within the five years preceding the date of application as a MOS Recreational Therapist or MOS Recreational Therapy Assistant; and
- ~~(7)~~(6) A statement that the applicant has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.

(c) Applicants pursuant to G.S. 93B-15.1(a2) shall pass the Military Exemption MOS Recreational Therapy Examination given by the North Carolina Board of Recreational Therapy Licensure.

(d) A military spouse applicant for licensure by endorsement, who possesses a current license whose licensure requirements are substantially equivalent or exceed the requirements for licensure in North Carolina shall make application with and be evaluated by the Board as set forth in Section .0300 of this Chapter.

(e) The application in Paragraph d) shall be accompanied by:

- (1) A color photograph;
- (2) Official college transcripts from all colleges attended;
- (3) Verification of current state license;
- (4) Verification of passage of the Exam given by National Council for Therapeutic Recreation Certification;
- ~~(5) The licensure fee as set forth in Rule .0501 of this Chapter; and~~
- ~~(6)~~(5) A statement that the applicant has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.

Authority G.S. 90C-27; 90C-33; 93B-15.1.

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

Rules approved by the Rules Review Commission at its meeting on August 15, 2019 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

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<u>Setting up Polling Place Prior to Voting</u>	08 NCAC 10B .0102*	31:23 NCR
<u>Leaving the Voting Enclosure, Spoiled or Incomplete Ballots</u>	08 NCAC 10B .0104*	31:23 NCR
<u>Procedures at the Close of Voting</u>	08 NCAC 10B .0105*	31:23 NCR
<u>Election Supplies Return</u>	08 NCAC 10B .0106*	31:23 NCR
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SOCIAL SERVICES COMMISSION

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<u>Corrective Action</u>	10A NCAC 06R .0102*	33:17 NCR
<u>Definitions</u>	10A NCAC 06R .0201*	33:17 NCR
<u>Program Goals</u>	10A NCAC 06R .0302*	33:17 NCR
<u>Insurance</u>	10A NCAC 06R .0304*	33:17 NCR
<u>Personnel: Centers: Home with Operator and Staff</u>	10A NCAC 06R .0305*	33:17 NCR
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<u>Equipment and Furnishings</u>	10A NCAC 06R .0403*	33:17 NCR
<u>Planning Program Activities</u>	10A NCAC 06R .0501*	33:17 NCR
<u>Nutrition</u>	10A NCAC 06R .0502*	33:17 NCR
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<u>Standards for Office Space and Facilities</u>	10A NCAC 67A .0103*	33:17 NCR
<u>Administration and Agency Compliance</u>	10A NCAC 67A .0105*	33:17 NCR
<u>Civil Rights</u>	10A NCAC 67A .0106*	33:17 NCR
<u>Forms</u>	10A NCAC 67A .0107*	33:17 NCR
<u>Advisory to Counties Regarding Petition of Garnishment</u>	10A NCAC 67A .0108*	33:17 NCR
<u>Good Cause for Delayed Hearings</u>	10A NCAC 67A .0203*	33:17 NCR
<u>Attendance at the Hearing</u>	10A NCAC 67A .0204*	G.S. 150B-21.5(a)(5)
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<u>Employment of Relatives</u>	25 NCAC 01I .1702*	33:12 NCR
<u>Provisions for Tentative Temporary Classifications</u>	25 NCAC 01I .1805*	33:12 NCR
<u>Posting and Annoucement of Vacancies</u>	25 NCAC 01I .1902*	33:12 NCR
<u>Applicant Information and Application</u>	25 NCAC 01I .1903*	33:12 NCR
<u>Selection</u>	25 NCAC 01I .1905*	33:12 NCR
<u>Promotion</u>	25 NCAC 01I .2003*	33:12 NCR
<u>Other Pay</u>	25 NCAC 01I .2105	33:12 NCR
<u>Dismissal for Unsatisfactory Performance of Duties</u>	25 NCAC 01I .2302*	33:12 NCR
<u>Dismissal for Grossly Inefficient Job Performance</u>	25 NCAC 01I .2303*	33:12 NCR
<u>Dismissal for Unacceptable Personal Conduct</u>	25 NCAC 01I .2304*	33:12 NCR
<u>Written Warning</u>	25 NCAC 01I .2305*	33:12 NCR
<u>Disciplinary Suspension Without Pay</u>	25 NCAC 01I .2306*	33:12 NCR
<u>Demotion</u>	25 NCAC 01I .2307*	33:12 NCR
<u>Appeals</u>	25 NCAC 01I .2310*	33:12 NCR

The following rules are subject to Legislative Review.

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Standards of Construction: Water Supply Wells</u>	15A NCAC 02C .0107*	33:10 NCR
<u>Designated Areas: Water Supply Wells Cased to Minimum Dep...</u>	15A NCAC 02C .0117	33:10 NCR

ELECTROLYSIS EXAMINERS, BOARD OF

<u>Supervising Physician</u>	21 NCAC 19 .0501*	33:21 NCR
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TITLE 08 – STATE BOARD OF ELECTIONS

**08 NCAC 10B .0101 TASKS AND DUTIES OF
PRECINCT OFFICIALS AT VOTING PLACES**

(a) For purposes of this Chapter, unless otherwise noted, the term "precinct officials" shall mean chief judge, precinct judge, assistants, emergency election-day assistants, and ballot counters.

(b) Tasks of Precinct Chief Judge - Precinct Chief Judges, in accordance with election statutes, within the Rules of the State Board of Elections, and under the supervision of the county board of elections, shall have the following tasks to perform as to each primary or election:

- (1) attend an instructional meeting presented by the county board of elections prior to each primary or election as required by G.S. 163-46;
- (2) upon learning that any parent, spouse, child, or sibling of the Precinct Chief Judge has filed for elective office, inform the county board of elections so that the county board of elections may disqualify the Precinct Chief Judge under G.S. 163-41.1(b) for the specific primary or election involved;
- (3) upon learning that any parent, parent in-law, spouse, child, child in-law, sibling, or sibling in-law of the Precinct Chief Judge has been appointed to serve in the same precinct, inform the county board of elections so that the county board of elections may appoint an emergency election-day assistant;
- (4) receive and review the signed list of the appointed observers as provided in G.S. 163-45;
- (5) receive and post a sample ballot in the voting place as provided in G.S. 163-165.2;
- (6) notify the county board of elections of any sickness, emergency, or other circumstances that will or might prevent the person from performing as precinct chief judge on a primary or election day;
- (7) receive, prior to the day of the primary or election, from the county board of elections any security keys or codes as to any voting systems or units that are to be operated at the precinct;
- (8) prior to the opening of the polls, administer to any precinct official, not previously sworn, the oath of office as set out in G.S. 163-41;

- (9) prior to the opening of the polls, ensure the technology and connectivity requirements of 08 NCAC 10B .0109(b) are met;
- (10) if at the time of opening the voting place, a judge has not appeared, appoint another person to act as precinct judge until the chair of the county board of elections appoints a replacement as set out in G.S. 163-41;
- (11) be present at the voting place at 6:00 a.m., and ensure the opening of the polls at 6:30 a.m. as mandated by G.S. 163-166 and 08 NCAC 10B .0102;
- (12) respond to any voter's request to have assistance to vote as set out in the provisions of G.S. 163-166.8(b);
- (13) ensure the continued arrangement of the voting enclosure as required in G.S. 163-166.2;
- (14) supervise the closing of the voting place at 7:30 p.m. in compliance with procedures set out in G.S. 163-166.10 and 08 NCAC 10B .0105;
- (15) handle challenges made on election or primary day in accordance with G.S. 163-87, and conduct the hearing upon said challenge in accordance with G.S. 163-88;
- (16) be responsible, as mandated by G.S. 163-182.3, for adherence to all rules pertaining to counting, reporting, and transmitting official ballots under 08 NCAC 10B .0105 and .0106;
- (17) ensure the maintenance of and appearance of efficient, impartial, and honest election administration at the precinct as required by G.S. 163-166.5(3);
- (18) monitor the grounds around the voting place to ensure compliance with the limitation on activity in the buffer zone under G.S. 163-166.4(a);
- (19) ensure peace and good order at the voting place as required by G.S. 163-48. Examples of peace and good order include:
 - (A) keeping open and unobstructed the place at which voters or persons seeking to register or vote have access to the place of registration and voting;
 - (B) preventing and stopping attempts to obstruct, intimidate, or interfere with any person in registering or voting;

- (C) protecting challengers and witnesses against molestation and violence in the performance of their duties; and
- (D) ejecting from the place of registration or voting any challenger or witness for violation of any provisions of the election laws or rules.
- (20) ensure that voters are able to cast their votes in dignity, good order, impartiality, convenience, and privacy as required in G.S. 163-166.7(c) and 08 NCAC 10B .0101;
- (21) if needed, check or assist in checking the registration of voters at the voting place;
- (22) if ballot counters are authorized by the county board of elections under G.S. 163-43, receive the list of counters from the county board, or appoint counters if authorized to do so by the county board. Prior to a ballot counter performing duties and tasks, administer the oath required by G.S. 163-43. Report to the county board of elections the names and addresses of any ballot counters to the county board at the county canvass as set out in G.S. 163-43.
- (23) perform the required legal duties of chief precinct judge/judge or face criminal consequences as set out in G.S. 163-274 (1); and
- (24) not accept money from candidates, commit fraud, false statements, or false writings in performing election duties, or face the criminal consequences set out in G.S. 163-275(3)(8)(9) and (12).

Where the precinct chief judge does not have the exclusive statutory mandate to perform a task or duty, a precinct judge may be designated to perform such task or duty.

(c) Tasks of Precinct Judge - Precinct Judges, in accordance with election statutes, within rules of the State Board of Elections, and under the supervision of the county board of elections, shall have the following tasks to perform as to each primary or election:

- (1) attend an instructional meeting presented by the county board of elections prior to each primary or election as required by G.S. 163-46;
- (2) upon learning that any parent, spouse, child, or sibling of the Precinct Judge has filed for elective office, inform the county board of elections so that the county board of elections may disqualify the Precinct Judge under G.S. 163-41.1(b) for the specific primary or election involved;
- (3) upon learning that any parent, parent in-law, spouse, child, child in-law, sibling, sibling in-law or first cousin of the Precinct Judge has been appointed to serve in the same precinct, inform the county board of elections so that the county board of elections may appoint an emergency election-day assistant;
- (4) if the chief judge fails to appear at the opening of poll, appoint, with the other precinct judge, a person to act as chief judge until the chairman

- of the county board appoints a new chief judge as per G.S. 163-41;
- (5) notify the county board of elections of any sickness, emergency, or other circumstances that will or might prevent the person from performing as precinct chief judge on a primary or election day;
- (6) be present at the voting place at 6:00 a.m., and ensure the prompt opening of the polls at 6:30 a.m. as mandated by G.S. 163-166 and any rules promulgated under 08 NCAC 10B .0102;
- (7) perform the required legal duties of chief precinct judge/judge or face criminal consequences as set out in G.S. 163-274(1);
- (8) not accept money from candidates, commit fraud, false statements, or false writings in performing election duties, or face the criminal consequences set out in G.S. 163-275(3)(8)(9) and (12); and
- (9) aid and cooperate with the precinct chief judge, as requested or needed, as to those duties noted in Subparagraphs (12) through (21) of Paragraph (b) of this Rule.

A precinct judge may be designated to perform tasks and duties of a chief precinct judge, where those duties are not statutorily made exclusive to the chief precinct judge.

(d) Tasks of Election Assistants - Election Assistants, in accordance with election statutes, within the rules of the State Board of Elections, and under the supervision of the county board of elections, shall have the following tasks to perform as to each primary or election:

- (1) check the registration of voters at the voting place as per G.S. 163-166.7(a);
- (2) guide voters to voting units or provide voters ballots as per G.S. 163-166.7(b);
- (3) prior to performing duties and tasks after being duly appointed, take the oath required by G.S. 163-41;
- (4) notify the county board of elections of any sickness, emergency, or other circumstances that will or might prevent the person from performing as an election assistant on a primary or election day;
- (5) upon learning that any parent, spouse, child, or sibling of the Election Assistant has filed for elective office, inform the county board of elections so that the county board of elections may disqualify the Election Assistant under G.S. 163-41.1(b) for the specific primary or election involved;
- (6) upon learning that any parent, parent in-law, spouse, child, child in-law, sibling, sibling in-law or first cousin of the Election Assistant has been appointed to serve in the same precinct, inform the county board of elections so that the county board of elections may appoint an emergency election-day assistant; and

- (7) aid the chief judge and other precinct judges in the performances of their tasks and duties as needed or directed.

(e) Tasks of Emergency Election – Day Assistant - Emergency Election-Day Assistants, in accordance with election statutes, within the rules of the State Board of Elections, and under the supervision of the county board of elections, shall have the following tasks to perform as to each primary or election:

- (1) be prepared prior to and on the day of a primary or election to serve, on notice given by the county board of elections, to travel to and work at any voting place within the county;
- (2) perform all the tasks and duties of an election assistant as set out in Paragraph (d) of this Rule;
- (3) notify the county board of elections of any sickness, emergency, or other circumstances that will or might prevent the person from performing as an election assistant on a primary or election day;
- (4) upon learning that any parent, spouse, child, or sibling of the emergency election-day assistant has filed for elective office, to inform the county board of elections so that the county board of elections may disqualify the emergency election-day assistant under G.S. 163-41.1(b) for the specific primary or election involved; and
- (5) upon learning that any parent, parent in-law, spouse, child, child in-law, sibling, sibling in-law or first cousin of the emergency election-day assistant has been appointed to serve in the same precinct, inform the county board of elections.

(f) Tasks of Ballot Counters - All ballot counters, in accordance with election statutes, with the rules of the State Board of Elections and under supervision of the county board of elections, shall perform all the following:

- (1) after appointment, appear at the poll at close of the polls and to be prepared to count ballots under the direction and control of the chief and other precinct judges;
- (2) prior to a ballot counter performing duties and tasks, take the oath required by G.S. 163-43;
- (3) upon learning that any parent, spouse, child, or sibling of the ballot counter has filed for elective office, inform the county board of elections so that the county board of elections may disqualify the ballot counter under G.S. 163-41.1(b) for the specific primary or election involved; and
- (4) upon learning that any parent, parent in-law, spouse, child, child in-law, sibling, sibling in-law or first cousin of the ballot counter has been appointed to serve in the same precinct, inform the county board of elections.

There is no requirement to have ballot counters appointed or used by a county board of elections. The county board of elections of any county may authorize the use of precinct ballot counters to aid the chief judges and judges of election in the counting of

ballots in any precinct or precincts within the county. The county board of elections shall appoint the ballot counters it authorizes for each precinct or, in its discretion, the board may delegate authority to make such appointments to the precinct chief judge, specifying the number of ballot counters to be appointed for each precinct.

(g) General duties of all Precinct Officials - All precinct officials, in accordance with election statutes, with the rules of the State Board of Elections and under the supervision of the county board of elections, shall perform all of the following:

- (1) count votes when votes are required to be counted at the voting place, G.S. 163-182.2;
- (2) make an unofficial report of returns to the county board of elections, G.S. 163-182.2;
- (3) certify the integrity of the vote and the security of the official ballots at the voting place, G.S. 163-182.2;
- (4) return official ballots and equipment to the county board of elections, G.S. 163-182.2;
- (5) ensure that the voting system cannot be tampered with throughout the period voting is being conducted;
- (6) ensure that only properly voted official ballots are introduced into the voting system;
- (7) ensure that, except as provided by G.S. 163-166.9, no official ballots leave the voting enclosure during the time voting is being conducted there;
- (8) ensure that all improperly voted official ballots are returned to the precinct officials and marked as spoiled;
- (9) ensure that voters leave the voting place after voting;
- (10) ensure that voters not eligible to vote in the precinct but who seek to vote there are given assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote;
- (11) ensure that information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records, including any updates to a voter's voter registration, is recorded and delivered to the county board of elections;
- (12) ensure that registration records can only be accessed by precinct officials;
- (13) ensure that party observers are given access as provided by G.S. 163-45 to current information about which voters have voted;
- (14) aid any voter, as needed, in curbside voting as provided for in G.S. 163-166.9;
- (15) provide Spanish ballot instructions when such instructions are required by Section 203 of the Voting Rights Act of 1965, and direct all language needs that can not be handled at the precinct to the county board office;
- (16) register and help, at the voting place, those persons eligible to register and vote on election

- day as allowed by G.S. 163-258.28 and G.S. 163-82.6(d);
- (17) report to the county board of elections, any physical or mental ailment, impairment, or deterioration that may adversely affect the performance of an election related task or duty. Report any such conditions known in any other precinct officials to the county board;
 - (18) report any violation of election laws or regulations to the chief judge, or report such violation to the county board of elections if the chief precinct judge is involved in the violation;
 - (19) provide any person who requests it any information on how to contact the county director of elections, the county board of elections, or the office of the State Board of Elections; and
 - (20) work and stay at the voting place, at all times during the voting day, until closure. By prior agreement with the county board of elections and pursuant to G.S. 163-42, election assistants and emergency election-day assistants may work less than the entire voting day.

*History Note: Authority G.S. 163-22; 163-166.6;
Temporary Adoption Eff. April 15, 2002;
Eff. August 1, 2004;
Readopted Eff. September 1, 2019.*

08 NCAC 10B .0102 SETTING UP POLLING PLACE PRIOR TO VOTING

- (a) The Chief Judge, Judges, and Assistants shall arrive at the voting place no later than 6:00 a.m. on the day of the election.
- (b) The Chief Judge shall administer the oath to Judges and Assistants who have not taken the oaths required by G.S. 163-41 or G.S. 163-42.
- (c) The Chief Judge shall assign tasks regarding the setup of the polling place to ensure the participation of judges and assistants of each represented party. At least one official shall be directed by the Chief Judge to manage curbside voting and facilitate the process for voters with special needs.
- (d) The Chief Judge or designated official shall ensure that the telephone or other device required by 08 NCAC 10B .0109(b) is working.
- (e) The members of the County Board of Elections shall ensure the following:
 - (1) each voting system is delivered to the voting place and placed in the custody of the Chief Judge or designated official within three days before the election with the ballot labels or other precinct designation already in place on each unit;
 - (2) keys and other security devices necessary for the operation of the voting system are delivered to the Chief Judge;
 - (3) a board member or employee of the County Board of Elections and the Chief Judge or designated official shall confirm the keys and

- other security devices are provided to the Chief Judge;
- (4) all numbers stamped on the keys and security devices should correspond to the number of the voting units;
- (5) a board member or employee of the County Board of Elections and the Chief Judge or designated official shall ensure that the ballots are in position and that no votes have been cast or recorded on any unit, and that the units are operating according to manufacturer specifications;
- (6) voting tabulating units shall be locked and sealed (or otherwise secured in the manner recommended by the manufacturer) and shall remain that way until the polls are closed; and
- (7) keys and other security devices are kept in a location that cannot be accessed by anyone other than election officials.
- (f) The Chief Judge, with the cooperation of at least one official of the other major political party shall verify the delivery of all election supplies, records and equipment necessary for the conduct of the election.
- (g) The Chief Judge shall ensure that all voting instructions, signs, and sample ballots are posted around the polling place, including signs designating the voting place, the buffer zone, temporary or permanent accessible parking, and the curbside voting area.
- (h) The Chief Judge shall ensure that the polling place is arranged to provide private spaces so voters may cast votes unobserved. The Chief Judge shall also ensure that there is adequate space and furniture for separate areas for voter registration records, ballot distribution, and private discussions with voters. The voting enclosure must be set up so that all equipment and furniture can be seen by the Chief Judge, Judges, and Assistants. The exterior of the voting units and every part of the voting enclosure shall be in plain view of the Chief Judge and Judges.
- (i) The door to the voting place/enclosure shall be sufficiently wide to accommodate voters in wheelchairs. The door width, hardware, and thresholds shall comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) which is hereby incorporated by reference, including any subsequent amendments or editions, which can be found free of charge at <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/background/adaag>. The County Board of Elections must approve any plan that would cause a deviation in the set up and arrangement of the voting enclosure. For example, generally the door into the voting place/enclosure shall be the same door used to exit the voting place/enclosure. However, if by doing so the flow of voters is disturbed, a separate door may be used to exit the voting place/enclosure. If a separate door is used, it shall be in plain view of the Chief Judge, Judges, and Assistants so that they can ensure that only election officials may enter the voting enclosure through the exit door.
- (j) The Chief Judge shall assign a Judge or Assistant to provide demonstrations to voters, upon request, in the use of the voting system.

(k) At the Chief Judge's request at 6:30 a.m. one of the Judges shall announce that the polls are open and that polls will close at 7:30 p.m.

History Note: Authority G.S. 163-22; 163-165.5; Temporary Adoption Eff. April 15, 2002; Eff. August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017; Amended Eff. September 1, 2019.

08 NCAC 10B .0104 LEAVING THE VOTING ENCLOSURE, SPOILED OR INCOMPLETE BALLOTS

(a) When the voter has been presented with the official ballots by the judge, the voter shall be deemed to have begun the act of voting, and the voter shall not leave the voting enclosure until the voter has finalized the act of voting. On receiving the ballots, the voter shall retire alone to one of the voting booths, unless the voter is entitled to assistance under G.S. 163-166.8, where the voter shall mark the ballots. The voter shall return any unvoted ballots to the precinct officials.

(b) If a voter spoils or damages a ballot, the voter may obtain another upon returning the spoiled or damaged ballot to the chief judge or other designated official. A voter shall not be given a replacement ballot until the voter has returned the spoiled or damaged ballot. The voter shall not receive more than three replacement ballots. The chief judge shall deposit each spoiled or damaged ballot in the container provided for that purpose.

(c) When the voter has marked the ballot the voter shall ensure the ballot is cast according to the instructions provided by precinct officials. After casting his or her ballots, the voter shall leave the voting enclosure unless the voter is authorized to remain within the enclosure for purposes of assisting a voter pursuant to G.S. 163-166.8.

(d) No voter shall be permitted to occupy a voting booth already occupied by another voter, except that spouses may occupy the same voting booth if both wish to do so. Excluded from this prohibition are persons providing assistance under G.S. 163-166.8.

(e) When the voter leaves the voting enclosure, whether or not the voter has finalized voting, the voter shall not be permitted to enter the voting enclosure again for the purpose of voting.

(f) If a voter leaves the voting enclosure and has not finalized the act of voting by pressing the button or touching the screen in the space in the case of Direct Record Electronic Voting Machines, by feeding the ballot into the tabulator in the case of Optical Scan Equipment, or by depositing the paper ballot into the ballot box, the chief judge or judges of election may find, by unanimous vote, that the ballot marked by the voter had not been disturbed by any other person and may execute the ballot for the voter who has vacated the voting enclosure. If the Chief Judge and Judges of election cannot unanimously confirm that the ballot marked by the voter has not been disturbed, the ballot must be marked as spoiled and placed with other spoiled ballots (or in the case of direct record electronic machines, the ballot must be cleared according to the voting system specifications). The fact that a ballot is only partially and not fully marked shall have no bearing on the decision of the Chief Judge and Judges. In each instance where this type of incident occurs, the Chief Judge and Judges

must document the circumstances and make the information known to the county board of elections.

History Note: Authority G.S. 163-22; 163-166.7; Temporary Adoption Eff. April 15, 2002; Eff. August 1, 2004; Readopted Eff. September 1, 2019.

08 NCAC 10B .0105 PROCEDURES AT THE CLOSE OF VOTING

(a) Before each primary and election, the chairman of the county board of elections shall furnish each chief judge written instructions provided by the State Board pursuant to G.S. 163-182.1, G.S. 163-182.2, and 08 NCAC 06B. 0105 on how ballots shall be marked and counted. Before starting the counting of ballots in the precinct, the chief judge shall instruct all of the judges, assistants, and ballot counters in how marked ballots shall be counted and tallied.

(b) The Chief Judge shall announce or have it announced that the polls are closed at 7:30 p.m. unless the time has been extended pursuant to G.S. 163-166.01. Time shall be determined by the same timepiece used to determine the opening of the polls.

(c) Any person who is in line at the close of polls shall be afforded an opportunity to vote. A list shall be made, starting at the end of the line and moving forward, of everyone standing in line at the close of polls and anyone whose name is on that list shall be permitted to vote. No person entering the voting enclosure after the close of polls has been announced, other than those whose names are on the list, shall be permitted to vote under any circumstance.

(d) The Chief Judge and Judges must subscribe their names to each pollbook.

(e) Only official ballots shall be voted and counted in accordance with G.S. 163-182.1(a). No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to determine the voter's choice under the rules for counting ballots. Such determination shall be made by the county board of elections if the chief judge and judges are unable to determine the voter's choice, or whether a particular ballot shall be counted.

(f) No person shall intentionally deface or tear an official ballot in any manner, and no person, other than the voter, shall intentionally erase any name or mark written on a ballot by a voter.

(g) The Chief Judge, along with a Judge of another political party, shall "close the polls" on each voting unit. The results sheet from each unit shall be placed in an "Official Precinct Returns Envelope." As soon as the polls are closed the chief judge and judges shall, without adjournment or postponement, count the ballots. The counting of ballots at the precinct shall be continuous until completed. More than one voting unit may be counted at the same time by the precinct officials, assistants, and ballot counters, but the chief judge and judges shall supervise the counting of all units and shall be responsible for them. From the time the first unit is read or opened and the count of votes begun until the votes are counted and the statement of returns made out, signed, certified and provided to the chief judge or judge responsible for delivering them to the county board office, the precinct chief judge and judges shall not separate, nor shall any one of them

leave the voting place except in case of unavoidable necessity as determined by the Chief Judge.

(h) The counting of the ballots shall be made in the presence of the precinct election officials and witnesses and observers who are present and desire to observe the count. Observers shall not interfere with the counting of the ballots.

(i) As soon as the votes have been counted and the precinct returns certified, the chief judge, or one of the judges selected by the chief judge, shall do the following:

- (1) report the total precinct vote for each ballot item to the witnesses and observers who are present; and
- (2) report by telephone or other electronic means the total precinct vote for each ballot item to the county board of elections.

The total precinct vote shall be unofficial and shall have no binding effect upon the official county canvass to follow.

(j) The Chief Judge and Judges shall sign the consolidation and accounting sheets and statement of returns and shall place them in the "official precinct returns" envelope or container.

(k) The Chief Judge shall place or cause to be placed in a sealed container by an authorized person under the Chief Judge's direction and control the following:

- (1) voter registration documents and information;
- (2) provisional ballot envelope;
- (3) payroll information for precinct officials;
- (4) county board communication devices, unit keys and security devices; and
- (5) the official returns envelope.

The container shall be sealed with non-transparent tape of sufficient size to contain signatures. It shall be signed by the Chief Judge and two Judges.

(l) Consolidation sheets, including the statement of returns for all voted official ballots, shall be completed by adding curbside votes to the totals. In any precinct using direct record electronic voting equipment, the county board of elections may provide for any paper ballots to be transported upon closing of the polls to the office of the county board of elections for counting. An accounting form shall be completed that accounts for every used and unused ballot providing the number of blank ballots received from the board of elections, the number of regular voted ballots, provisional voted ballots, and spoiled ballots.

(m) Voted provisional ballots must be placed in a sealed envelope or container and the seal must be signed by the Chief Judge and Judges.

(n) The Chief Judge or precinct official shall bring the results cartridge (or reading) from each unit to the board of elections office.

(o) All supplies must be collected for return to the board of elections office. Any items brought into the polling place facility shall be removed upon vacating the polling place. Precinct Judges shall ensure that the facility is left in the same condition in which it was received for voting purposes.

(p) Under no circumstance shall voting items be left in the polling place facility out of the custody of the Chief Judge or other designee.

*History Note: Authority G.S. 163-22; 163-166.10;
Temporary Adoption Eff. April 15, 2002;*

Eff. August 1, 2004;

Readopted Eff. September 1, 2019.

08 NCAC 10B .0106 ELECTION SUPPLIES RETURN

(a) After an election or primary, all election supplies, including but not limited to election results materials, registration and voter history materials, provisional voting materials, challenged voter materials, ballots, and completed forms, shall be taken to the county board of elections office as soon as all procedures described in 08 NCAC 10B .0105 are complete.

(b) Election materials and supplies, used or unused, shall not remain in the custody of the Chief Judge, Judges, or any other person and shall be returned to the county board of elections office. If it is not possible for a county board of elections to have all precincts return materials and supplies on the night of the election, the county board of elections must submit a security plan describing how election materials and supplies shall be temporarily stored to the Executive Director of the State Board of Elections 30 days prior to the election. The Executive Director will provide either approval or required modifications to the plan in writing no later than 15 days prior to the election. Factors to be used in making a determination under this Paragraph may include:

- (1) the distance of the round trip from the precinct to the county board of elections office;
- (2) whether heavy traffic exists, including due to tourism or construction; and
- (3) anticipated weather conditions.

(c) Each board of elections shall have an emergency backup plan to be implemented when an emergency as determined by the Chief Judge prevents election materials and supplies from being returned as described in Paragraph (a) of this Rule. The emergency backup plan shall enable board of elections employees or other authorized persons to retrieve the items from the custody of the Chief Judge and Judges and transport them to the board of elections office.

(d) All materials shall be transported with a "chain of custody" form that includes a list of the supplies used at the voting site, the signatures and times in which the supplies are in the custody of each official. All supplies, once received at the board of elections, shall be verified and signed for by a board of elections representative.

History Note: Authority G.S. 163-22; 163-166.10;

Temporary Adoption Eff. April 15, 2002;

Eff. August 1, 2004;

Readopted Eff. September 1, 2019.

08 NCAC 10B .0107 ASSISTANCE TO VOTERS IN PRIMARIES AND GENERAL ELECTIONS

(a) Any assistance rendered to a voter under G.S. 163-166.8 shall be performed in person, and shall not be allowed by electronic, paper, or mechanical means of communication with a person outside the voting booth, except as provided in G.S. 163-166.8(a)(2). The use of electronic, paper, or mechanical devices by the voter, while alone in the voting booth and not in contact with another person outside the voting booth, shall not be considered voting assistance.

(b) No precinct official may refuse the voter's choice of the person to assist the voter, unless the person so named is excluded by G.S.

163-166.8, does not appear at the voting place to assist the voter prior to the close of the polls, or refuses to assist the voter. If the voter's choice of the assisting person is not available for one of the reasons set forth in this Paragraph, the voter shall be allowed to make an additional choice until a willing assisting person is available to assist the voter. There shall be no limitation on the number of voters a person can assist, as long as the assisting person is chosen by each voter to assist.

(c) A person seeking assistance in any election shall, upon arriving at the voting place, first request the chief judge to permit him to have assistance, communicating the reasons. If the chief judge determines that the voter is entitled to assistance, the chief judge shall ask the voter to identify the person the voter desires to provide assistance. If the person the voter requests to provide assistance is not present, the voter is entitled to contact the person and to wait for the person at the voting place, but outside the voting enclosure. When that person is available to assist or is already present to assist, the voter, along with that person, shall present themselves to the chief judge. The chief judge shall thereupon request the person indicated to render the requested aid. In the case of assistance requested at a one-stop voting site, the assistance may be requested and received from any election official available at such site.

(d) Any chief judge, judge, or assistant shall provide assistance to a voter if so requested, unless the election official is prohibited from doing so by his status as the voter's employer, official of the voter's union, or agent of the voter's employer or union. Under no circumstances shall any precinct official or person be assigned to assist a voter who was not specified by the voter.

(e) Conduct of Persons Rendering Assistance. - Anyone rendering assistance to a voter shall be admitted to the voting booth with the person being assisted and shall be governed by G.S. 163-166.8(c). The assisting person shall not do the following:

- (1) give, present, or display within the vision of the voter, any list of preferred candidates, a marked sample ballot, or any other type of document, item, or display that conveys a choice of candidate(s) unless it was brought to the voting booth by the voter. An assisting person may respond to an inquiry of a hearing impaired voter in writing if needed, as long as a ballot choice is not communicated to the voter;
- (2) speak or play within the hearing or vision of the voter, any conversation, communication, or recording that conveys a choice of candidate(s);
- (3) operate a phone, radio, computer, or any other means of communication while in the voting booth with the voter;
- (4) seek to persuade or induce any voter to cast any vote in any particular way;
- (5) communicate to others how the voter voted, unless ordered by a court, or make a memorandum of anything that occurred in the voting booth; or
- (6) violate any election law set out in G.S. 163 or violate any election rule set out in Title 8 of the NC Administrative Code.

History Note: Authority G.S. 163-22; 163-166.8;
Temporary Adoption Eff. April 15, 2002;
Eff. August 1, 2004;
Readopted Eff. September 1, 2019.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 06R .0101 CERTIFICATION REQUIREMENT

(a) Subchapter 06R contains standards for certification of adult day care programs. The standards relate to the operation of an adult day care program including administration, facility, and program operation. Adult day care programs, as defined in G.S. 131D-6, shall be required to meet these standards. Programs meeting the exemptions in G.S. 131D-6(d) shall meet these standards for certification only if receiving funds administered by the Division of Aging and Adult Services for social services programs established by the Older Americans Act and Title XX of the Social Security Act. Certification is the responsibility of the county department of social services pursuant to G.S. 108A-14(a)(5) and the Department of Health and Human Services, Division of Aging and Adult Services.

(b) Any program making application for certification or application for renewal of certification shall be in compliance with all standards for certification. If all standards are not being met, certification shall be denied or the adult day care program shall be issued a provisional certificate as provided for in Rule .0802 of this Subchapter. Certification of any program in willful violation of standards as defined in Rule .0102(e) of this Subchapter shall be revoked. Procedures in G.S. 150B-3 shall be followed.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);
Eff. July 1, 1979;
Amended Eff. July 1, 2007; October 1, 2000; July 1, 1990;
January 1, 1986;
Readopted Eff. September 1, 2019.

10A NCAC 06R .0102 CORRECTIVE ACTION

(a) Adult day care programs shall be inspected annually and monitored in accordance with the Division of Aging and Adult Services criteria to assure compliance with the rules governing adult day care programs. These visits shall be announced and unannounced. Where a violation of G.S. 131D-6 or of this Subchapter is identified by staff of the county department of social services, the Division of Aging and Adult Services, or any State or local government inspector such as environmental health specialists, building and fire safety inspectors, the program director of the adult day care program shall be notified in writing of the nature of the violation by that inspector and requested to take corrective action by the county department of social services. Pursuant to G.S. 108A-14(a)(5), the county department of social services shall determine, in consultation with the program director, the date by which corrective action shall be completed based upon the severity of the violation and the effect of the violation on the participants of the program.

(b) Where a violation is a danger to the participants' health, safety or welfare, the program director or his or her designee shall take corrective action at the time the violation is identified to correct the source of danger or to remove the participants from the source of danger. The corrective action shall be documented in writing within 72 hours.

(c) Where a violation has the potential to endanger the participants' health, safety, or welfare, the program director shall take corrective action. The date specified for the completion of the corrective action shall be no later than 30 days of written notification.

(d) Where a violation does not endanger the participants' health, safety or welfare, such as a violation of administrative or record keeping standards, the program director shall take corrective action. The date specified for the completion of the corrective action shall be within 90 days of written notification.

(e) Failure to take corrective action as required by Paragraphs (b), (c), and (d) of this Rule constitutes a willful violation of the standards for certification of adult day care programs. Willful violation shall lead to disciplinary action as set forth in Rules .0802, .0804, and .0805 of this Subchapter.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 42 USC 3026(a)(13)(E); Eff. January 1, 1986; Amended Eff. July 1, 2007; June 1, 2000; July 1, 1990; Readopted Eff. September 1, 2019.

10A NCAC 06R .0201 DEFINITIONS

As used in this Subchapter, the following definitions shall apply:

- (1) "Activities of Daily Living (ADL)" means eating, dressing, bathing, toileting, bowel and bladder control, transfers, and ambulation.
- (2) "Adaptable space" means space in a facility that can be used for several purposes and without sacrificing the health, safety or welfare of the participants. For example, an activities room that is used for crafts in the morning, used to serve lunch and used for exercise activities in the afternoon.
- (3) "Adaptable activity" means an activity where participation can be varied from individual, small group, or large group, and can occur seated, standing or lying down.
- (4) "Adult" means an individual 18 years of age or older.
- (5) "Adult Day Care Center" means a day care program operated in a structure other than a single family dwelling.
- (6) "Adult Day Care Home" means a day care program for up to 16 people operated in a single family dwelling where the owner resides.
- (7) "Adult Day Care Program" means the provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. This term is used to refer to adult day care programs, adult day health programs, and combined adult day care and

adult day health programs (i.e., combination programs).

- (8) "Alzheimer's Disease" means a progressive, degenerative disease of the brain resulting in impaired memory, thinking and behavior. Characteristic symptoms of the disease include gradual memory loss, impaired judgement, disorientation, personality change, difficulty in learning and loss of language skills.
- (9) "Ambulatory" means a person who is mobile and does not need the continuing help of a person or object for support (except a walking cane).
- (10) "Capacity" means the number of participants for which a day care program is certified.
- (11) "Caretaker" (or "Caregiver") means an adult who provides an impaired adult with supervision, assistance with preparation of meals, housework, or personal grooming.
- (12) "Certification" means the process whereby an adult day care program is approved as meeting the North Carolina Adult Day Care Rules in 10A NCAC 06.
- (13) "Certifying agency" means the Department of Health and Human Services, Division of Aging and Adult Services.
- (14) "Dementia" means the loss of intellectual functions (such as thinking, remembering, and reasoning) that interferes with a person's daily functioning.
- (15) "Direct Participant Care" means the opportunity for employees, volunteers, or individuals with whom the facility contracts either directly or through an agency, to physically interact with, be in the presence of, or supervise participants.
- (16) "First Aid Kit" means a collection of first aid supplies, such as bandages, tweezers, scissors, disposable nonporous gloves, adhesive tape, antiseptic, micro shield or face mask, liquid soap, or cold pack, for treatment of minor injuries or stabilization of major injuries.
- (17) "Governing Body" means the individual(s), organization, agency, corporation, or other entity that has legal responsibility for policy, management, administration, operation, and financial liability for the adult day care or adult day health program.
- (18) "Group process" means at least three persons engaged in a common activity.
- (19) "Instrumental Activities of Daily Living (IADL)" means meal preparation, medication intake, housekeeping, money management, phone use, laundering, reading, shopping, communication such as speaking, writing, signing, gestures, using communication devices and going to health activities.
- (20) "Medication schedule" means a listing of all medications taken by participants with dosages,

- route of administration, and times medications are to be taken.
- (21) "Mental health disability" means disorders with psychological or behavioral symptoms or impairment in functioning due to a social, psychological, genetic, physical, chemical or biological disturbance.
- (22) "Modifiable activity" means an activity that can be simplified and adapted as a participant's abilities decline or improve.
- (23) "Non-ambulatory" means a person who is bedfast.
- (24) "Nucleus area" means adult day care programs located in a multi-use building and refers to the area not shared by any other programs that are located in the building but used only by the adult day care program.
- (25) "Nursing care" means skilled nursing care or intermediate care.
- (26) "On-site" means the area certified for the day care program.
- (27) "Owner" means the person who is responsible for management, operation, and financial liability of a day care home or day health home.
- (28) "Other special needs disease or condition" means a diagnosis, disease or disability, such as AIDS/HIV, that benefits from monitoring or oversight by program staff in a supervised setting.
- (29) "Participant" means a person enrolled in an adult day care program.
- (30) "Personal care" means tasks that range from assistance with basic personal hygiene and grooming, feeding, and ambulation, to medical monitoring and other health care related tasks.
- (31) "Physical therapy program" means a series of activities prescribed by a licensed physical therapist or activities administered under the supervision of a physical therapist.
- (32) "Program director" means the person responsible for program planning, development and implementation in a day care program.
- (33) "Progress notes" means written reports in the participant's file of staff discussions, conferences, or consultation with family or caregiver, for the purpose of evaluation of a participant's progress and any other information as required by Rule .0501 in this Subchapter regarding the participant's situation.
- (34) "Related disorders" means dementia or impaired memory characterized by irreversible memory dysfunction.
- (35) "Respite care," as a component of adult day care programs, means a service provided to give temporary relief to the family or caregiver. Respite is provided to families caring for children or adults with disabilities or families caring for frail or disabled older adults.

- (36) "Responsible party" means the caretaker with primary day-to-day responsibility for an impaired adult.
- (37) "Semi-ambulatory" means a person who needs and uses the assistance of objects such as a wheelchair, crutches, walker, or other appliance or the support of another person on a regular and continuing basis to move about.
- (38) "Senior center" means a community or neighborhood facility for the organization and provision of services including health, social, nutritional and educational services and a facility for recreational and group activities for older persons.
- (39) "Special care services" means services by a certified adult day care program that promotes itself as providing programming, activities or care specifically designed for persons with Alzheimer's or other dementias, or related disorders, mental health disabilities, or other special needs diseases or conditions.
- (40) "Supervising agency" means the county department of social services in the county where the day care program is located. Pursuant to G.S. 108A-14(a)(5), the county department is responsible for seeing that certification standards are maintained and for making a recommendation to the Division of Aging and Adult Services regarding certification.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); Eff. January 1, 1981; Amended Eff. July 1, 1990; January 1, 1986; July 1, 1984; Temporary Amendment Eff. September 28, 1999; Amended Eff. July 1, 2007; July 17, 2000; Readopted Eff. September 1, 2019.

10A NCAC 06R .0302 PROGRAM GOALS

The adult day care program shall have written goals to ensure the health, safety and welfare of the participants are met. These goals shall also meet the definition of adult day care services as stated in 10A NCAC 71R .0903.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); Eff. July 1, 1978; Amended Eff. July 1, 1990; January 1, 1983; Readopted Eff. September 1, 2019.

10A NCAC 06R .0304 INSURANCE

The governing body shall provide for liability insurance coverage for the facility and vehicles used by the program.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); Eff. July 1, 1978; Readopted Eff. September 1, 2019.

**10A NCAC 06R .0305 PERSONNEL: CENTERS:
HOMES WITH OPERATOR AND STAFF**

(a) General Requirements

- (1) The owner of adult day care homes initially certified after January 1, 2003, or homes that make structural modifications to the home after this date, shall reside in the home.
- (2) Staff positions shall be planned and filled to develop and direct the activities of the goals that meet the requirements of Rule .0302 in this Section.
- (3) There shall be a Statewide criminal history records search of all newly-hired employees of adult day care programs for the past five years conducted by an agency contracted with the North Carolina Administrative Office of the Courts.
- (4) There shall be a written job description for each position, full-time or part-time. Each job description shall specify qualifications of education and experience; to whom the employee reports; and duties.
- (5) References, including employment verification from former employers, shall be required in recruitment of staff.
- (6) There shall be an established review process discussing employment performance for each employee at least annually and following any probationary period. The review process must be approved by the governing body.
- (7) There shall be a written plan for orientation and staff development of new employees and volunteers and ongoing development and training of all staff. Documentation from the orientation, staff development and training shall be recorded, including attendance.
- (8) There shall be a written plan for staff substitutions in case of absences. The plan shall include the coverage of responsibilities in each job description as well as maintenance of staff-participant ratio as required in Paragraph (c) of this Rule. Substitute staff shall have the same qualifications and training as those required by the position and in this Subchapter. Substitutes are not required to have current certified CPR and First Aid training as long as other staff are present with this training at all times. Trained volunteers may be used instead of paid substitutes.
- (9) Prior to beginning employment, each new employee shall present a written medical statement, completed within the prior 12 months by a physician, nurse practitioner or physician's assistant, certifying that the employee has no illness or health condition that would pose a health risk to others and that the employee can perform the duties assigned in the job.

(b) Personnel Policies

- (1) Each adult day care program shall establish written personnel policies and provide a copy to each employee. Personnel policies shall address:
 - (A) annual leave;
 - (B) training;
 - (C) pay practices;
 - (D) employee benefits;
 - (E) grievance procedures;
 - (F) performance and evaluation procedures;
 - (G) criteria for advancement;
 - (H) discharge procedures;
 - (I) hiring and firing responsibility;
 - (J) use of any probationary period;
 - (K) staff participation in reviews of personnel practices;
 - (L) maternity leave;
 - (M) military leave;
 - (N) civil leave (jury duty and court attendance); and
 - (O) protection of confidential information.
 - (2) All policies developed shall conform to the United States Department of Labor Fair Labor Standards Act.
- (c) Staffing Pattern.** The staffing pattern shall be dependent upon the enrollment criteria and the particular needs of the participants who are to be served. The ratio of staff to participants shall meet the goals and objectives of the program. Whenever regularly scheduled staff are absent, substitutes shall be used to maintain the staff-participant ratio. The minimum ratios shall be as follows:
- (1) **Adult Day Care Homes**
One full-time equivalent staff person with responsibility for direct participant care for each 6 participants, up to 16 participants total.
 - (2) **Adult Day Care Centers**
One full-time equivalent staff person with responsibility for direct participant care for each eight participants.
- (d) Program Director**
- (1) The program director shall have the authority and responsibility for the management of activities and direction of staff to ensure that activities and services are provided in accordance with its program policies.
 - (2) The program director shall:
 - (A) be at least 18 years of age;
 - (B) have completed a minimum of two years of post secondary education from an institution accredited by an accrediting agency recognized by the United States Department of Education (including colleges, universities, technical institutes, and correspondence schools) or have a high school diploma or the equivalent and a combination of a minimum of five years experience and training in

- services to elderly or adults with disabilities;
 - (C) have at least two years of work experience in supervision and administration;
 - (D) present prior to employment, a written medical statement, completed within the prior 12 months by a physician, nurse practitioner, or physician's assistant, certifying that the program director has no illness or health condition that would pose a risk to others and that the program director can perform the duties assigned on the job; and
 - (E) provide at least three reference letters or the names of individuals who can be contacted, one of which shall include previous employment verification. The individuals providing reference information shall have knowledge of the applicant program director's background and qualifications.
- (3) In employing a program director, the governing body, agency or owner shall hire applicants that exhibit these characteristics:
- (A) ability to make decisions and set goals;
 - (B) knowledge and understanding of the needs of the aging and disabled;
 - (C) ability to design and implement a program of group and individual activities that meets the changing physical and cognitive needs of participants; and
 - (D) managerial and administrative skills, including the ability to supervise staff and to plan and coordinate staff training.
- (4) The adult day care program shall have an on-site program director or substitute program director meeting the requirements as specified in this Rule during the program's operational hours. The program director shall assign authority and responsibility for the management of activities and direction of staff when the program director is not on site.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);
Eff. July 1, 1978;
Amended Eff. September 1, 2007; July 1, 2007; May 1, 1992; July 1, 1990; July 1, 1984; January 1, 1981;
Readopted Eff. September 1, 2019.

10A NCAC 06R .0401 GENERAL REQUIREMENTS

(a) The facility and grounds of an adult day care program shall meet the requirements of the local environmental health specialist, the local fire safety inspector, the county department of social

services, and the North Carolina Division of Aging and Adult Services.

- (b) The facility shall comply with all applicable zoning laws.
- (c) There shall be adaptable spaces, as defined in Rule .0201(2) of this Subchapter, suitable for activities for participants. Programs shall provide space for participants to engage in group activities and separate space for times when a participant needs privacy and quiet.
- (d) The facility shall provide a minimum of 40 square feet of indoor space for each participant in the portion of the buildings utilized for adult day care programs. This minimum square footage requirement excludes hallways, offices, and restrooms.
- (e) If meals are prepared within the facility, the kitchen shall meet environmental health rules, as defined in 15A NCAC 18A .3300, which is hereby incorporated by reference, including any subsequent amendments.
- (f) Storage areas shall be provided for clean linens, dirty linens, cleaning materials, household supplies, food, equipment, and program supplies needed to conduct activities. These items shall be stored in areas that do not pose a hazard to participants. For the purpose of this Rule, "dirty linen" is any linen which has touched something, other than the storage area itself, or someone after being placed in the clean linen storage area.
- (g) A minimum of one male and one female toilet shall be located in each facility and accessible in accordance with the North Carolina Building Code, which is hereby incorporated by reference, including any subsequent amendments or editions, and can be accessed at no cost at www.ncdoi.com/OSFM/. One toilet shall be available for each 12 adults, including staff and participants who utilize the facility. One hand lavatory shall be provided for each two toilets.
- (h) All rugs and floor coverings must be fastened down. Loose throw rugs are not allowed. Floors shall not be slippery or made from a material that is worn or poses a fall risk to participants.
- (i) A telephone shall be available for participants to make and receive calls.
- (j) Unless identified by the Division of Aging and Adult Services as shared space, the area certified for adult day care shall be used for the sole purpose of the adult day care program and its activities during hours of program operation.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);
Eff. July 1, 1978;
Amended Eff. September 1, 2007; July 1, 1990; January 1, 1981;
Readopted Eff. September 1, 2019.

10A NCAC 06R .0403 EQUIPMENT AND FURNISHINGS

(a) The adult day care facility shall have the following equipment and furnishings:

- (1) at least one straight back chair or folding chair for each participant and each staff person, excluding those participants or staff in wheelchairs or other specialized seating equipment. Each chair shall support the weight of the individual participant or staff person sitting in the chair;

- (2) table space for all participants to be served a meal at a table and for program activities;
 - (3) chairs or sofas that allow for position changes, are upholstered or cushioned and water and stain resistant, so that at least half of the participants can relax and rest at the same time. If all participants take a daily rest period at the same time, the facility shall have enough of this seating for all participants. The seating requirement does not apply if the participant utilizes a wheelchair or other specialized seating equipment; and
 - (4) a quiet space or room with a minimum of one bed or cot so that participants can lie down as needed separate from other program activities.
- (b) All equipment and furnishings shall be functional, as intended for its use, and shall not pose a safety risk to any participant or staff of the facility.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); Eff. July 1, 1978; Amended Eff. July 1, 2007; January 1, 1981; Readopted Eff. September 1, 2019.

10A NCAC 06R .0501 PLANNING PROGRAM ACTIVITIES

(a) Enrollment Policies and Procedures

- (1) Each adult day care program shall have written program policies including enrollment policies that define the population served. These policies shall serve as the basis for determining who shall be accepted into the program and for planning activities for the participants. The planned activities shall be created to meet the needs of the participant to satisfy their service plan. The enrollment policies shall outline the criteria for people whose needs cannot be met by the planned activities. The enrollment policies shall provide for discharge of participants whose needs can no longer be met by the adult day care program. If a day care program serves semi-ambulatory or non-ambulatory persons, it shall be stated in the enrollment policies.
- (2) Prior to enrollment, the applicant, family members or caregiver shall have a minimum of one personal interview with a program staff member. During the interview, the staff shall complete initial documentation identifying support networks, activities enjoyed by the participant, medical care needs, any spiritual, religious or cultural needs, and a determination of whether the program can meet the individual's expressed needs. The staff person doing the interviewing shall sign the determination of needs and the applicant, family member or caregiver shall sign the application for enrollment. These signed

documents shall be obtained before the individual's first day of attendance as a participant in the program.

- (3) A medical examination report signed by a physician, nurse practitioner or physician's assistant, completed within the prior three months, shall be obtained by the program within 30 days of enrollment. This report must be updated annually no later than the anniversary date of the initial report. The requirements for the medical examination report shall be found in Rule .0508 of this Section.
- (4) At enrollment, or in the initial interview, the program policies shall be discussed with the applicant, family member or caregiver and a copy of the program policies shall be provided.
- (5) Documentation of receipt of and agreement to abide by the program policies by the applicant, family member or caregiver shall be obtained by the program and kept in the participant's file.
- (6) The program policies shall contain:
 - (A) a discharge policy outlining the criteria for discharge and notification procedures for discharge, the timeframe and procedures for notifying the applicant, family member or other caregiver of discharge, and referral or follow-up procedures;
 - (B) a medication policy as specified in Rule .0505 of this Section;
 - (C) a description of participant's rights while enrolled in the adult day care program;
 - (D) the grievance policies and procedures for families;
 - (E) the advance directives policy;
 - (F) the non-discrimination policies;
 - (G) the procedure to maintain confidentiality;
 - (H) the policy on reporting suspected abuse or neglect;
 - (I) the description of the geographical area served by the program; and
 - (J) the inclement weather policies.

(b) Planning Services for Individual Participants

- (1) Within 30 days of enrollment of a new participant, the program shall perform a comprehensive assessment and written service plan for each individual. The comprehensive assessment shall address the individual's ability to perform activities of daily living and instrumental activities of daily living while in the program. The mental, social, living environment, economic and physical health of the individual shall also be assessed. The service plan shall be signed and dated by the program director or the director's designee. For

- adult day health participants the health component of the service plan shall be written and signed by a registered nurse.
- (2) In developing the written service plan, the program shall include input from the participant, family members, or caregiver and other agency professionals with knowledge of the individual's needs. The service plan shall be based on strengths, needs and abilities identified in the assessment. The assessment and service plan shall be reviewed at regular intervals, and no less than once every six months. The service plan shall include:
 - (A) the needs and strengths of the participant;
 - (B) the interests of the participant;
 - (C) the measurable service goals and objectives of care for the participant while in the adult day care program;
 - (D) the type of interventions to be provided by the program in order to reach desired outcomes;
 - (E) the services to be provided by the program to achieve the goals and objectives;
 - (F) the roles of participant, family, caregiver, volunteers and program staff; and
 - (G) the time limit for the plan, with provision for review and renewal.
 - (3) Progress notes in the participant's record shall be updated at least every three months.
 - (4) The participant, caregiver, and other service providers may contribute to the development, implementation and evaluation of the service plan.
 - (5) Any change in behavior, mood, or attitude or need for help or services shall be reported by the program. If the participant is a department of social services client, the report shall be made to the participant's family, caregiver, or responsible party and the department of social services worker or the social worker designated as consultant to the adult day care program by the department. If the participant is not a social services client, the report shall be made to the person's family, caregiver or responsible party. A note shall be made in the participant's record of action taken.
 - (6) The participant or the responsible party may choose the days and number of days the participant will attend, with the program director's approval.
 - (7) The reason for any unscheduled participant absence shall be determined by the program staff and documented on the day it occurs. The program shall attempt to contact the absent participant or the responsible party to determine why the participant was absent on a scheduled day of attendance.
- (8) The adult day care program is responsible for the participant's safety when a participant is registered in attendance. A participant leaving the program for part of a day shall sign out relieving the program of further responsibility. If a participant has emotional or mental impairment that requires supervision and that person needs or wants to leave the program during the day, the social worker, family, caregiver, friend, or responsible party shall sign the person out.
- (c) Program Activities Plan
 - (1) The day care center or home shall have a program activities plan that meets the following criteria:
 - (A) Overall planning of activities shall be based on elements of the individual service plans.
 - (B) Program activities shall follow the group process, both large and small groups, with provision for individual activities and services as needed.
 - (C) Activities shall be adaptable and modifiable to allow for greater participation and to maintain participant's individual skill level.
 - (D) Activities shall be consistent with the stated program goals.
 - (E) Activities shall be planned jointly by staff and participants. Staff shall encourage participants to participate in the planning and operation of the program as much as the participant is able, and to use their skills, talent and knowledge in program planning and operation.
 - (F) All program activities shall be supervised by program staff.
 - (G) Participants may refuse to participate in any given activity.
 - (2) The activities schedule shall provide for the inclusion of cognitive activities to be available on a daily basis, and be designed to:
 - (A) stimulate thinking and creativity;
 - (B) provide opportunities for learning new ideas and skills;
 - (C) help maintain existing reasoning skills and knowledge base; and
 - (D) provide opportunities to utilize previously learned skills.
 - (3) The activities schedule shall provide for the inclusion of physical activities to be available on a daily basis, and be designed to:
 - (A) improve or maintain mobility and overall strength; and
 - (B) increase or maintain joint range of motion.

- (4) The activities schedule shall provide for the inclusion of psychosocial activities, as determined by the client's service plan, to be available on a daily basis, and be designed to:
 - (A) provide opportunities for social interaction;
 - (B) develop a sense of belonging;
 - (C) promote goal-oriented use of time;
 - (D) create feelings of accomplishment;
 - (E) foster dignity and self-esteem;
 - (F) prompt self-expression; and
 - (G) provide fun and enjoyment.
- (5) The activities schedule shall:
 - (A) be in writing, specifying the name of each activity to be provided, the days of the week each activity shall be conducted, and the approximate length of time of each activity;
 - (B) indicate the length of time the schedule is to be followed; and
 - (C) be posted weekly or monthly in the facility and visible to anyone into the facility.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);
Eff. July 1, 1978;
Amended Eff. February 1, 2008; July 1, 2007; July 1, 1990;
January 1, 1981;
Readopted Eff. September 1, 2019.

10A NCAC 06R .0502 NUTRITION

- (a) An adult day care program shall provide a midday meal to each participant in attendance. The meal shall provide at least one-third of an adult's daily nutritional requirement as specified by the United States Department of Agriculture, Dietary Guidelines for Americans, which are incorporated by reference, including any subsequent amendments or additions to these guidelines. These guidelines may be accessed at no cost at <http://www.health.gov/dietaryguidelines/>. A licensed dietitian/nutritionist shall approve the menu following the requirements set forth in this Paragraph.
- (b) An adult day program shall offer snacks and fluids to meet the participant's nutritional and fluid needs as determined by their most current medical record. The adult day program shall offer a mid-morning and mid-afternoon snack daily to participants. Snacks shall be planned to keep sugar, salt and cholesterol intake to a minimum, as determined by a licensed dietitian/nutritionist.
- (c) An adult day program shall provide a therapeutic diet, if prescribed in writing by a physician, physician's assistant or nurse practitioner for any participant. If therapeutic diets are prepared by program staff, such staff shall have training in planning and preparing therapeutic diets or shall provide documentation of previous training and education in planning and preparing therapeutic diets to prepare meals in accordance with a physician, physician's assistant or nurse practitioner's prescription.
- (d) A licensed dietitian/nutritionist shall give guidance and training to the staff on basic and special nutritional needs as set forth in this Rule and proper food handling techniques as required

by the Environmental Health Section of the Division of Public Health and the prevention of foodborne illness.

(e) An adult day care program shall neither admit nor continue to serve a participant whose dietary requirements cannot be accommodated by the program.

(f) An adult day care program shall store, prepare and serve meals following required food handling techniques as required by the Environmental Health Section of the Division of Public Health. The food service provider or adult day care program shall abide by the food safety and sanitation practices required by the Commission for Public Health and the United States Department of Agriculture, including any subsequent amendments or additions, which are incorporated by reference. Copies of the rules may be found at the following websites: <https://ehs.ncpublichealth.com/docs/rules/294306-14-3300.pdf> and http://www.fsis.usda.gov/Fact_Sheets/Safe_Food_Handling_Fact_Sheets/index.asp.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);
Eff. July 1, 1978;
Amended Eff. February 1, 2008; July 1, 2007; March 1, 1992;
October 1, 1981; January 1, 1981;
Readopted Eff. September 1, 2019.

10A NCAC 06R .0503 TRANSPORTATION

(a) For programs providing or arranging for public transportation, the adult day care program shall have a transportation policy that includes routine and emergency procedures. For the purposes of this Rule, "routine procedures" shall mean maintenance of vehicle and actions taken to minimize risk to participants when transported. For the purposes of this Rule, "emergency procedures" shall mean accidents, medical emergencies, weather emergencies and escort issues of the participants, including pick-up and drop-off of participants to ensure their safety.

(b) When the adult day care program provides transportation, the following requirements shall be met:

- (1) Each person transported shall have a seat in the vehicle.
- (2) Participants shall be transported no more than 30 minutes without being offered the opportunity to have a rest stop.
- (3) Vehicles used to transport participants shall be equipped with seatbelts. Participants shall be instructed to use seatbelts while being transported.
- (4) Vehicles shall be equipped with a first aid kit and a fire extinguisher.
- (5) A copy of the transportation policy shall be located in the vehicle used for transport.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);
Eff. July 1, 1978;
Amended Eff. January 1, 1981;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. February 1, 2008; July 1, 2007; August 1, 2002;
Readopted Eff. September 1, 2019.

10A NCAC 06R .0504 EMERGENCIES AND FIRST AID

(a) A fire safety and evacuation plan, approved by the Office of the State Fire Marshal or its designee, shall be prepared and maintained by each adult day care program in compliance with the North Carolina State Building Code and Fire Prevention Code, which is hereby incorporated by reference, including any subsequent amendments or editions, and can be accessed at no cost at www.ncdoi.com/OSFM/.

(b) Plan for Emergencies. A written plan for handling emergencies shall be established and displayed in the facility and in a location visible to participants and staff. For the purpose of this Rule, an "emergency" is any dangerous or unexpected situation that would require immediate action by a staff member. All staff shall know the plan. The plan shall:

- (1) relate to medical and non-medical emergencies. For the purpose of this Rule, a "medical emergency" is any dangerous or unexpected situation that would require a participant to receive immediate medical care by a staff member; and
- (2) specify responsibilities of each staff member in an emergency.

Quarterly drills in handling emergencies, such as medical emergencies, natural disasters, and facility security shall be conducted. Monthly fire drills shall be conducted. All drills shall be documented including the date and kind of emergency.

(c) Evacuation Plan. An evacuation plan shall be posted in each room of an adult day care program. A record shall be kept of dates and time required to evacuate the facility.

(d) All physically able staff who will provide direct participant care shall complete certified training in standard first aid and cardio-pulmonary resuscitation (CPR). If a staff member is determined to be physically unable to complete this training, a signature by a licensed physician, physician's assistant or nurse practitioner attesting to such shall be provided stating the time limit of such physical inability. The first aid and CPR training shall be:

- (1) taught by an instructor certified through the American Heart Association, American Red Cross, National Safety Council, or American Safety and Health Institute;
- (2) current, as determined by the organization conducting the training and issuing the certification; and
- (3) documented on an official attendance card issued by the organization certifying the training, or documented by the attendance course roster, in which case the roster shall be signed by the instructor, indicate pass or fail for each student, indicate the length of time the training is valid, and be accompanied by a copy of the instructor's certification.

(e) The program shall arrange for medical assistance to be available to participants in the event of an emergency.

(f) The program shall have a portable emergency information file that includes electronic files available on each participant that includes:

- (1) hospital preference, physician of record and physician's telephone number;

- (2) emergency contact (family or caregiver);
- (3) insurance information;
- (4) medications and allergies;
- (5) current diagnosis and history; and
- (6) advance directives, if any.

(g) Adult day care staff shall report actions taken in case of sickness and all incidents resulting in physical injury or suspected physical injury, including incidents involving missing participants, to the program director. The adult day care staff shall make sure that all persons needing medical attention receive it as soon as possible. The person taking emergency action shall notify the family or responsible party of the participant involved and other program staff shall be notified of emergency action taken as soon as possible. The program director shall compile and keep on record a report of all emergency actions taken. A copy of the report shall be sent to the county department of social services within 72 hours of the incident.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);

Eff. July 1, 1978;

Amended Eff. July 1, 2007; July 1, 1990; January 1, 1981;

Readopted Eff. September 1, 2019.

10A NCAC 06R .0506 HOURS AND DAYS OF OPERATION

(a) Whenever participants are present at the adult day care program, the program participants shall be supervised and services shall be provided.

(b) The program shall operate for a minimum of six hours per day.

(c) Day care programs shall provide supervision of participants and program activities at least five days per week, except that a facility may be closed for holidays, hazardous weather conditions, emergency situations, and vacations. The county department of social services shall be notified of late openings or early closures on days when hazardous weather conditions exist or when emergency situations arise. For the purpose of this Rule, an "emergency situation" is any dangerous or unexpected event that would require immediate action by a staff member.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);

Eff. July 1, 1978;

Amended Eff. July 1, 2007; March 1, 1992;

Readopted Eff. September 1, 2019.

10A NCAC 06R .0508 RECORDS

(a) Individual Participant Records. Each adult day care program shall maintain records to document the progress of each participant and to document program operation. These records shall be kept in a locked file. An individual folder for each participant shall be established and maintained and include the following:

- (1) a signed application recording:
 - (A) the participant's full name;
 - (B) the participant's address and telephone number;

- (C) the date of birth, marital status and living arrangement of participant;
 - (D) the time of day participant will arrive and time of day participant will leave the program;
 - (E) the travel arrangements to and from the program for the participant;
 - (F) the name, address and telephone number of at least two family members, friends or caregivers of the participant who can be contacted in emergencies;
 - (G) the name, address and telephone number of a licensed medical service provider who will see the participant upon request of the participant; and
 - (H) the personal concerns and knowledge of the caregiver that may have an impact on the participant's health, safety, and welfare.
- (2) copies of all current and former signed authorizations for the adult day care program to receive and give out confidential personal identifiable information and health information on the participant. The current authorization shall include the name of the party from whom information is requested and to whom information is given. The current authorization shall be dated within the prior 12 months and obtained each time a request for participant information is made.
- (3) a signed authorization for the participant to receive emergency medical care from any licensed medical practitioner, if emergency care is requested by the participant or deemed necessary by program staff.
- (4) a medical examination report conducted within three months before enrollment and updated annually, signed by a licensed physician, physician's assistant or nurse practitioner. The report shall include information on:
- (A) any current diseases and chronic conditions and the degree to which these diseases and conditions require observation by day care staff, and restriction of normal activities by the participant;
 - (B) any presence and degree of psychiatric problems;
 - (C) the amount of supervision the participant requires;
 - (D) any limitations on physical activities;
 - (E) the listing of all medications with dosages and times medications are to be administered; and
 - (F) the most recent date participant was seen by doctor.
- (5) documentation identified in Rule .0501(a)(2) and (b)(1) and (b)(2) of this Section.
- (6) progress notes that are the written report of staff discussions, conferences, consultation with family, friends or caregivers, evaluation of a participant's progress and any information regarding a participant's changed health, social or financial situation.
- (7) service plans for the participant, including scheduled days of attendance, for the preceding 12 months.
- (8) a signed authorization if the participant or his or her responsible party will permit photographs, video, audio recordings or slides of the participant to be made by the day care program, whether for medical documentation, publicity, or any other purpose. The authorization shall specify how and where such photographs, videos, audio recordings or slides will be used, and shall be obtained prior to taking any photographs, videos, audio recordings or slides of the participant.
- (9) a statement signed by the participant, a family member or caregiver acknowledging receipt of the program policies and agreeing to uphold program policies pertaining to the participant.
- (b) The adult day care program shall keep the following program records a minimum of six years:
- (1) copies of activity schedules;
 - (2) monthly records of expenses and income, including fees collected, and fees to be collected;
 - (3) all bills, receipts and other information that document expenses and income;
 - (4) a daily record of attendance of participants by name;
 - (5) accident reports;
 - (6) a record of staff absences, annual leave and sick leave, including dates and names of substitutes;
 - (7) reports on emergency and fire drills;
 - (8) individual personnel records on all staff members including:
 - (A) application for employment;
 - (B) evidence of a State criminal history check on each employee providing direct participant care;
 - (C) job description;
 - (D) medical certification of absence of a health condition that would pose a risk to others;
 - (E) written note or report on any personnel action taken with the employee;
 - (F) written report of annual employee review;
 - (G) CPR and first aid training documentation; and
 - (H) signed statement to keep all participant information confidential.
 - (9) a copy of all written policies, including:
 - (A) program policies;
 - (B) personnel policies;

- (C) agreements or contracts with other agencies or individuals;
- (D) plan for emergencies; and
- (E) evacuation plan;
- (10) program evaluation reports; and
- (11) control file of DSS-5027 (SIS Client Entry Form) for all participants for whom Social Services Block Grant (Title XX) reimbursement is claimed. The SIS Client Entry form (DSS-5027) shall include the participant's personal information such as name, social security number, date of birth, address and the case manager's name in addition to the types of services requested, the action or actions taken, and if the provider is authorized to claim reimbursement for the services rendered. A copy of this form is accessible at the North Carolina Department of Health & Human Services' website.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); Eff. July 1, 1978; Amended Eff. February 1, 2008; July 1, 2007; March 1, 1992; July 1, 1990; January 1, 1981; Readopted Eff. September 1, 2019.

10A NCAC 06R .0509 PROGRAM EVALUATION

- (a) Each adult day care program shall have in writing a plan for an annual internal evaluation of its operation and services. The plan shall include the timetable for initiating and completing the annual evaluation, the parties to be involved, the areas that will be addressed and the methods to be used in conducting the evaluation.
- (b) The following parties shall be involved, to the extent considered appropriate, as determined by the governing body or program director, in the evaluation process:
 - (1) the governing body;
 - (2) the program director;
 - (3) the staff;
 - (4) the participants;
 - (5) the families or caregivers of participants; and
 - (6) the local department of social services.
- (c) Evaluation shall focus on the following three areas:
 - (1) the extent to which the program is achieving its goals;
 - (2) the extent to which the program is meeting the needs and interests of participants; and
 - (3) the extent to which the program is meeting the adult day care needs of the local community in its operation.
- (d) A written report of the program evaluation and findings shall be made and kept on file.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); Eff. July 1, 1978; Amended Eff. January 1, 1981; Readopted Eff. September 1, 2019.

10A NCAC 06R .0601 PROCEDURE

- (a) All individuals, groups or organizations operating or wishing to operate an adult day care program as defined by G.S. 131D-6 shall apply for a certificate to the county department of social services in the county where the program is to be operated.
- (b) A social worker shall provide technical assistance and shall conduct a study of the program using the State Division of Aging and Adult Services Form DAAS-1500 or DAAS-6205. Form DAAS-1500 (The Adult Day Care Services Program Certification Report) shall include the type of action requested, type of program, identifiable information about the program including the name, address, name of director and email address, and document whether the adult day care program meets certification standards. Form DAAS-6205 (The Adult Day Health Services Program Certification Report) shall include the type of action requested, type of program, identifiable information about the program including the name, address, name of director and email address, and document whether the adult day health program meets certification standards. A copy of DAAS-1500 or DAAS-6205 can be obtained on the North Carolina Department of Health & Human Services' website.
- (c) The county of social services shall submit the initial certification package to the Division of Aging and Adult Services. The materials and forms to be included in the package are:
 - (1) program policies;
 - (2) organizational diagram;
 - (3) job descriptions;
 - (4) Form 732a-ADS (Daily Rate Sheet) or the equivalent showing planned expenditures and resources available to carry out the program of service for a 12 month period. The 732a-ADS form shall contain the provider's name, county, current budget period, projected client transportations costs, projected service days, average daily participation utilizing transportation, average daily cost of round trip per client, projected revenue including local match, and projected transportation costs. A copy of the form may be obtained at the North Carolina Department of Health & Human Services' website.
 - (5) a floor plan of the facility showing measurements, restrooms and planned use of space;
 - (6) Form DOA-1498 (Fire Inspection Report) or the equivalent, as determined by the local fire inspector, completed and signed by the local fire inspector, indicating approval of the facility, no more than 30 days prior to submission with the certification package;
 - (7) Form DOA-1499 (Building Inspection Report for Adult Day Care Centers), DOA-1499a (Building Inspection Form for Adult Day Care Homes), or the equivalent, as determined by the local building inspector, completed and signed by the local building inspector indicating approval of the facility, no more than 30 days prior to submission with the certification package;

- (8) Form DENR-4054 (Sanitation Evaluation Report) or the equivalent, as determined by the local registered environmental health specialist, completed and signed by a local registered environmental health specialist indicating approval of the facility, no more than 30 days prior to the submission with the certification package;
- (9) written notice and the effective date if a variance of local zoning ordinances has been made in order for property to be utilized for an adult day care program;
- (10) a copy of the articles of incorporation, bylaws and names and addresses of board members for adult day care programs sponsored by a non-profit corporation;
- (11) the name and mailing address of the owner of an adult day care program;
- (12) a written medical statement from a physician, nurse practitioner or a physician's assistant, completed within the 12 months prior to submission of the certification package, for each proposed staff member certifying absence of a health condition that would pose a risk to others and that the employee can perform the duties assigned to him or her on the job;
- (13) verification of standard first aid and cardio-pulmonary resuscitation certification (CPR) for each proposed staff member who is physically able and who will provide direct participant care. The requirements of Rule .0504(d) of this Subchapter shall be applicable to this Rule.
- (14) evidence of the completion of a Statewide criminal history records search for the past five years for the adult day care program owner and each proposed staff member who provides direct participant care, conducted by an agency approved by the North Carolina Administrative Office of the Courts; and
- (15) DAAS-1500 (Adult Day Care Certification Report). This form must be submitted by the county department of social services with a copy to the program.

(d) No more than 90 days prior to the end of the current period of certification, the county department of social services shall submit to the Division of Aging and Adult Services the following forms and materials that make up a certification package for the renewal of a certification.

- (1) Form DOA-1498 (Fire Inspection Report) or the equivalent, as determined by the local fire inspector, completed and signed by the local fire inspector, indicating approval of the facility, dated no more than 12 months prior to submission with the certification package;
- (2) Form DOA-1499 (Building Inspection Report for Adult Day Care Centers), DOA-1499a (Building Inspection Form for Adult Day Care Homes), equivalent, as determined by the local building inspector, when structural building

modifications have been made during the previous 12 months, completed and signed by the local building inspector indicating approval of the facility, within 30 days following completion of the structural building modifications;

- (3) Form DENR-4054 (Sanitation Evaluation Report) or equivalent, as determined by the local registered environmental health specialist, completed and signed by a local registered environmental health specialist, indicating approval of the facility, no more than 12 months prior to submission with the certification package;
- (4) a written medical statement from a physician, nurse practitioner or physician's assistant for each staff member hired subsequent to the previous certification or recertification expiration date, certifying absence of a health condition that would pose a risk to others and that the employee can perform the duties normally assigned on the job;
- (5) an updated copy of the program policies, organizational diagram, job descriptions, names and addresses of board members if applicable, and a floor plan showing measurements, restrooms, and planned use of space, if any changes have been made since the previous certification package was submitted;
- (6) Form 732a-ADS (Daily Rate Sheet) or the equivalent showing planned expenditures and resources available to carry out the program of service for a 12 month period;
- (7) verification of standard first aid and cardio-pulmonary resuscitation certification (CPR) for each proposed staff member who is physically able and who will provide direct participant care. The requirements of Rule .0504(d) shall be applicable to this Rule;
- (8) Evidence of the completion of a Statewide criminal history record which complies with Subparagraph (c)(14) of this Rule; and
- (9) DAAS-1500 (Adult Day Care Certification Report). This form must be submitted with the certification package by the county department of social services to the Division of Aging and Adult Services at least 30 days in advance of the expiration date of the certificate, with a copy to the program.

(e) Following review of the certification package, a pre-certification visit for certification shall be made by staff of the Division of Aging and Adult Services.

(f) Within 14 business days, the Division of Aging and Adult Services shall provide written notification to the applicant and the county department of social services of the action taken after a review of the certification package and visit.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);

Eff. January 1, 1986;
Amended Eff. September 1, 2007; July 1, 2007; July 1, 2000; May 1, 1992; July 1, 1990;
Readopted Eff. September 1, 2019.

10A NCAC 06R .0801 THE CERTIFICATE

- (a) The certificate shall be issued by the Division of Aging and Adult Services, when requirements for certification have been met under the rules of this Subchapter. The certificate shall be posted in the facility and visible to anyone upon entry into the facility.
- (b) The certificate shall be in effect for 12 months from the date of issuance unless revoked for cause, voluntarily or involuntarily terminated, or changed to provisional certification status.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);
Eff. January 1, 1986;
Amended Eff. July 1, 2000;
Readopted Eff. September 1, 2019.

10A NCAC 06R .0802 PROVISIONAL CERTIFICATE

- (a) A provisional renewal certificate shall be issued by the Division of Aging and Adult Services when:
 - (1) The certification renewal process identifies violations and a plan for corrective action is in place. The provisional certification will continue until corrections have been made and the Division is informed or until revoked.
 - (2) Corrective action has not been completed by the completion date established in a corrective action plan. The provisional certification will continue until corrections have been made and the Division is informed or until revoked.
 - (3) Renewal materials have not been submitted by the applicant per the Division's requested date, but were received by the Division prior to the expiration date of the current period of certification. The provisional certificate will remain in place until revoked or until replaced with full certification.
 - (4) There is an exigent circumstance such as an extreme weather event including a hurricane, major flooding, fire or earthquake, that prohibits the provider from satisfying the requirements of the adult day care program. If an exigent circumstance prohibits an adult day care program from meeting the requirements for recertification, the Division of Aging and Adult Services may issue a provisional certification for up to 180 calendar days from the date of the exigent circumstance.
- (b) A provisional certificate shall not be effective for more than six months.
- (c) When a provisional certificate is issued, the program shall post a copy of the notice from the Division of Aging and Adult Services adjacent to the current certificate. The notice shall include the reason why the program received a provisional certificate.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);
Eff. January 1, 1986;
Amended Eff. July 1, 2000; July 1, 1990;
Readopted Eff. September 1, 2019.

10A NCAC 06R .0804 DENIAL OR REVOCATION OF CERTIFICATE

- (a) A certificate shall be denied or revoked by the Division of Aging and Adult Services at any time for failure to comply with the rules of this Subchapter.
- (b) When a program fails to comply with the rules of this Subchapter at the time initial certification is requested, the certification shall be denied by the Division of Aging and Adult Services. A notice setting forth the particular reasons for the denial shall be delivered personally or by certified mail to the applicant. Such denial becomes effective 20 days after the receipt of the notice. If the provider appeals pursuant to Rule .0806 in this Subchapter, the Division of Aging and Adult Services shall reinstate a provider if applying for a renewal certificate, unless the health, safety and welfare of a participant is at risk as determined by the Division of Aging and Adult Services, until administrative appeals have been exhausted.
- (c) When the Division of Aging & Adult Services revokes a certificate when a violation has not been corrected by the date established by a corrective action plan, the Division of Aging & Adult Services shall issue a notice setting forth the particular reasons for the revocation and the notice shall be delivered personally or by certified mail to the applicant. Such revocation becomes effective 20 days after the receipt of the notice. If the provider appeals pursuant to Rule .0806 in this Subchapter, the Division of Aging & Adult Services shall reinstate the provider, unless the health, safety and welfare of a participant is at risk, until administrative appeals have been exhausted.
- (d) In accordance with 150B-3(c), if the Division finds that the health, safety, or welfare of the participants requires emergency action and incorporates this finding in its notice, the certificate shall be summarily suspended. Notice of the summary suspension shall be effected by serving the program director by personal delivery or certified mail. The summary suspension will be effective on the date specified in the notice or upon service of the notice, whichever is later.
- (e) When a program receives a notice of revocation, the program director shall inform each participant or caretaker of the notice and the reason for the revocation.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);
Eff. January 1, 1986;
Amended Eff. July 1, 2000; July 1, 1990;
Readopted Eff. September 1, 2019.

10A NCAC 06R .0806 PROCEDURE FOR APPEAL

- (a) When the program is notified by the Division of Aging and Adult Services of a negative action, the program may ask for an informal review by Division staff. For the purpose of this Rule, a "negative action" shall include a violation, statutory penalty, provisional certificate, termination, revocation, summary suspension, or denial. If the informal review is not, satisfactory to

the governing body or its designee, the governing body or designee may request a hearing.

(b) The program may request a hearing with the Office of Administrative Hearings within 60 days after receipt of written notification from the Division of a negative action.

(c) Except as provided for in Rule .0804(d) of this Subchapter, upon receipt of a request for a hearing, the enforcement of the negative action shall be suspended pending the final decision or until the governing body or its designee has exhausted the appeal process.

(d) The petition for a hearing shall be filed with the Office of Administrative Hearings in accordance with G.S. 150B-23 and 26 NCAC 03 .0103.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6); 150B-22;

Eff. January 1, 1986;

Amended Eff. July 1, 2000; March 1, 1992; July 1, 1990;

Readopted Eff. September 1, 2019.

10A NCAC 06R .0902 POLICIES AND PROCEDURES

Adult day care programs shall have written special care services policies and procedures implemented by staff and available for review within the center. In addition to the applicable policies and procedures established by this Subchapter, adult day care centers that provide special care services shall write policies and establish procedures that address:

- (1) The philosophy of the special care service that includes a statement of mission and objectives regarding the specific population to be served by the center that shall address the following:
 - (a) an environment that maintains and promotes the use of skills for daily living;
 - (b) a structured program of daily activities that allows for flexibility to respond to the needs, abilities, and preferences of participants;
 - (c) individualized service plans that address the maintenance of participant's abilities and promote the highest possible level of physical and mental functioning, as determined by program staff and the participant's current status; and
 - (d) methods of behavior management that preserve dignity through design of the physical environment, physical exercise, social activity, medication administration, proper nutrition and health maintenance.
- (2) The process and criteria for enrollment in and discharge from the service.
- (3) A description of the special care services offered by the center.
- (4) Participant assessment and service planning, including opportunity for family or caretaker involvement in the service planning and the implementation of the service plan, including

responding to changes in the participant's condition.

- (5) Safety measures addressing dangers such as wandering, ingestion, falls, smoking, and aggressive behavior.
- (6) Lost or missing participants.
- (7) Staff to participant ratios in the special care service to meet the needs of participants.
- (8) Amount and content areas of staff training both at orientation and annually based on the special care needs of the participants.
- (9) Physical environment and design features that address the needs of the participants. These features can encompass an entire center if the center promotes itself as providing special care or any section separated by closed doors from the rest of the center and advertised especially for special care of participants.
 - (a) Center or section exit doors may be locked only if the locking devices meet the requirements outlined in the State Building Code for special locking devices; and
 - (b) Where exit doors are not locked, a system of security monitoring shall be provided.
- (10) Activities based on personal preferences and needs of the participants that focus on the individual's interests and abilities.
- (11) Opportunity for involvement of families or caregiver in participant care.
- (12) The availability of or information on family support groups and other community services.
- (13) Additional costs and fees to the participant for the special services provided.

History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);

Temporary Adoption Eff. September 28, 1999;

Eff. July 17, 2000;

Readopted Eff. September 1, 2019.

10A NCAC 06R .0904 ENROLLMENT – SPECIAL CARE SERVICES

In addition to meeting enrollment policies and procedures requirements in Rule .0501(a) of this Subchapter, an adult day care center or home that provides special care services shall:

- (1) Provide disclosure information to a participant or the responsible party of a participant seeking enrollment in a center or home providing special care services. The disclosure information shall be written and address policies and procedures listed in Rule .0902 of this Subchapter.
- (2) Obtain the participant's medical examination report that shall specify a diagnosis, disability or condition consistent with the special care service offered by the program.

- (3) Ensure that a participant transferring from adult day care services to special care services meets the criteria for that special care service. Family or responsible persons shall agree to the transfer decision.

*History Note: Authority G.S. 131D-6; 143B-153(2a); 143B-153(6);
Eff. July 17, 2000;
Readopted Eff. September 1, 2019.*

10A NCAC 67A .0103 STANDARDS FOR OFFICE SPACE AND FACILITIES

This Rule sets forth requirements for office space, equipment, and facilities for county departments of social services, including agency suboffices. These requirements are in addition to State, county, or municipal building codes. Standards for office space and facilities shall comply with the Federal Confidentiality of Information requirements as set forth in 45 CFR 164.500, which is hereby incorporated by reference, including subsequent amendments and editions, and can be obtained free of charge at <https://www.ecfr.gov>.

- (1) Identification of Office. All social services offices shall be marked and identifiable in the community as a social services agency, as described in 45 CFR 205.170, which is incorporated by reference with subsequent amendments and editions and available free of charge at <https://www.ecfr.gov>, as follows:
- (a) Each office shall be identified by an outside sign visible from the road or street.
 - (b) If the office is housed within a public building occupied by other agencies or units of government, the agency shall be listed on a building directory in a manner similar or equal to that accorded every other agency.
- (2) Requirements for Physical Plant. Buildings housing social services agencies shall meet the following requirements:
- (a) Buildings housing social services agencies shall be certified to be in compliance with state and local fire and building codes.
 - (b) All buildings for which site clearance began before June 3, 1977, shall meet the equal access provisions specified in Section 504 of the Rehabilitation Act of 1973 as amended.
- (3) Requirements for Space. The minimum square footage for each employee shall be as follows:
- | | |
|--------------------------------------------------|----|
| (a) Staff Who Interview Clients In Their Offices | 80 |
| (b) Supervisors | 80 |
| (c) Management | 96 |

- (d) Staff Members Not Required to Conduct Interviews In Their Offices
56

- (4) Requirements for Privacy:
- (a) Private offices shall be required for the county director and each supervisor.
 - (b) Private offices or interviewing room shall be available to all staff who interview clients.
- (5) Requirements for Waiting Room and Reception Area. County department of social services shall be arranged to provide a waiting room to accommodate the people availing themselves of its use each day. A separate area is required for the receptionist.
- (6) Requirement for Conference Room. A conference or staff training room with seating capacity to accommodate people in attendance for meetings and training sessions.
- (7) Requirement for Storage Space and Confidentiality of Records. Space shall be provided for locating files and records, supplies, and forms as follows:
- (a) Files and supplies shall be accessible and convenient to staff responsible for their maintenance, use, and protection.
 - (b) Files and records shall be protected from fire, other damage and theft.
 - (c) Access to confidential information shall be limited to authorized personnel only as approved by the director or his or her designee.
 - (d) Space shall be available for storing janitorial and maintenance supplies and equipment.
- (8) Requirement to Provide Office Space for Persons Who Periodically Visit the Agency on DSS Related Business. Office space shall be provided to persons who visit the agency on DSS related business.
- (9) Requirement for Equipment. Furnishings and equipment such as, desk, chair, phone, and computer shall be provided to enable staff to perform its duties.

*History Note: Authority G.S. 108A-80; 143B-153; 45 CFR 205.170(a)(b); 45 CFR 164.500;
Eff. April 1, 1978;
Amended Eff. May 1, 1990; May 1, 1988;
Readopted Eff. September 1, 2019.*

10A NCAC 67A .0105 ADMINISTRATION AND AGENCY COMPLIANCE

- (a) The Regional Director or his or her designated representative shall evaluate each county department of social services not less than every three years, to determine compliance with Rule .0103 of this Subchapter using form DSS-1414 for each location. The county director of social services or his or her designee shall

verify compliance with Rule .0103 of this Subchapter using form DSS-1414.

(b) At the conclusion of an evaluation, the Regional Director or his or her designated representative who was the reviewer shall meet with the director of the county department to discuss the findings. Following this exit conference, the reviewer shall prepare a written report and transmit the report to the Regional Director. If the findings of the review indicate the county department is in compliance, the Regional Director shall, within 30 days of the date of the evaluation, forward a copy of the administrative review report to the agency director, the local social services board chairman, the chairman of the local board of county commissioners, and the county manager through a letter indicating the agency's compliance. If the county department is not in compliance, the following steps shall be taken within 30 days of the date of the evaluation:

- (1) The Regional Director shall send a copy of the evaluation report to the county director, the local social services board chairman, the chairman of the local board of county commissioners and the county manager setting forth the following information:
 - (A) the specific findings of non-compliance and what is required to come into compliance;
 - (B) notification that the agency has 90 days from the receipt of the report to come into compliance in these areas or to develop and submit to the division a corrective action plan. The division shall provide consultation and technical assistance regarding the areas of non-compliance to the local agency upon request; and
 - (C) notification to the agency that all federal and state administrative funds will be withheld should the county fail to comply or submit a corrective action plan within 90 days of notification of non-compliance.
- (2) In the event that the county department submits a corrective action plan to the division within the 90 day notice period, the Regional Director shall review the corrective action plan to ensure that it addresses each specific finding of non-compliance, and that the implementation of the corrective action plan can be expected to bring the agency into compliance.
- (3) Within 30 days after receipt of the plan, the Regional Director shall approve the plan if each finding has been addressed in accordance with Rule .0103 of this Subchapter or indicate how the county department can amend the corrective action plan in order to obtain approval. After a corrective action plan has been approved, the Regional Director shall monitor the agency's progress towards compliance and inform the agency, the local social services board chairman, the chairman of the local board of

county commissioners and the county manager of its findings in writing. If the findings indicate that the agency is not making progress towards compliance in accordance with its corrective action plan, the Regional Director shall so notify the agency, the local social services board chairman, and the chairman of the local board of county commissioners in writing that the agency has an additional 60 days from receipt of the notice to achieve compliance. If the agency does not achieve compliance or make progress towards compliance in accordance with its corrective action plan within the additional 60 day period, withholding shall commence in accordance with the procedures set forth in Subparagraph (b)(5) of this Rule.

- (5) In the event that the county department of social services fails to submit a corrective action plan within the 90-day notice period, the division director shall, within 30 days of the above referenced notification of county authorities, recommend to the Secretary the withholding of federal and state administrative funds. If the Secretary concurs with the division director's recommendation, the Secretary shall, within 30 days of the division director's recommendation, notify the agency director, the local social services board chairman, the chairman of the local board of county commissioners, and the county manager of the decision to use enforcement methods in accordance with 45 CFR 205.170 to ensure compliance. If the county department appeals the decision under the procedures outlined in Paragraph (c) of this Rule, the enforcement action shall be deferred until the conclusion of the hearing and any subsequent appeals.

(c) A county department of social services which is not in compliance and has been notified by the Secretary may appeal. If an appeal is desired, the county is required to file a hearing request with the Office of Administrative Hearings in accordance with Article 3 of G.S. 150B.

History Note: Authority G.S. 143B-153; 45 CFR 205.170(b); Eff. April 1, 1978; ARRC Objection March 17, 1988; Amended Eff. March 1, 1990; August 1, 1988; Readopted Eff. September 1, 2019.

10A NCAC 67A .0106 CIVIL RIGHTS

For reviewing compliance of county departments of social services with civil rights requirements in accordance with Title VI of the Civil Rights Act of 1964, form DSS-1464a shall be supplied to county departments of social services to be completed annually by the county director or his or her designee. Form DSS-1464a shall include the name of the county department of social services and a signature from the county director or his or her designee

attesting to satisfying the requirements of Title VI of the Civil Rights Act of 1964.

History Note: Authority G.S. 143B-153;
Eff. April 1, 1979;
Readopted Eff. September 1, 2019.

10A NCAC 67A .0107 FORMS

(a) In order to comply with federal and State reimbursements, each county department of social services shall complete forms set forth in this Rule.

(b) Form DSS-4263 shall be completed by the county services workers when time is spent providing direct service activities to meet reporting requirements at the federal, State and local levels and shall provide the basis for county reimbursement. Form DSS-4263 shall include the date, county provider name, worker identification number, client name, type of service provided, and minutes spent with client. All required fields must be completed and required fields not completed shall be considered an error and returned to the worker.

(c) Form DSS-5027 shall be completed by the case manager for each client requesting social services to document a client request or application for social services. All required fields must be completed and required fields not completed shall be considered an error and returned to the worker. Clients may refuse to provide their social security numbers and shall not be denied benefits, but the worker identification numbers of case managers are required.

History Note: Authority G.S. 75-62; 143B-153; 2 CFR 200;
Eff. August 15, 1980;
Amended Eff. September 1, 2008; December 1, 2007; March 1, 1990; January 1, 1983;
Readopted Eff. September 1, 2019.

10A NCAC 67A .0108 ADVISORY TO COUNTIES REGARDING PETITION OF GARNISHMENT

The State Division of Social Services shall advise county departments of social services and consolidated human services boards of any State and federal laws and regulations that restrict the garnishment of wages to recoup a fraudulent public assistance program payment as provided in G.S. 108A-25.3.

History Note: Authority G.S. 108A-25.3
Temporary Adoption Eff. December 8, 1997;
Eff. April 1, 1999;
Readopted Eff. September 1, 2019.

10A NCAC 67A .0204 ATTENDANCE AT THE LOCAL OR STATE HEARING

Attendance at the local or State hearing is limited to the appellant, his or her representative, representatives of the county department and any witnesses that the appellant or the county department wish to call upon for testimony.

History Note: Authority G.S. 108A-79; 143B-153;
Eff. October 1, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016;
Amended Eff. September 1, 2019.

10A NCAC 67A .0205 APPEAL OF DECISION

(a) The hearing officer shall make a tentative decision on the appeal that shall be served upon the county department, the appellant, and the representatives by mail. Decisions reversing the county department's action shall be sent by certified mail to the county department. Decisions affirming the county department's actions shall be sent by certified mail to the appellant. Decisions shall be sent by regular mail to representatives. The tentative decision shall contain a notification of the right to present oral and written argument for and against the decision as set out in this Rule.

(b) The county and the appellant may present oral and written argument, for and against the decision by contacting the Chief Hearing Officer.

(c) If a written argument, a request for a time extension to submit a written argument, or a request for oral argument is not received by the Chief Hearing Officer within 10 calendar days of the date the notice of the tentative decision is signed, the tentative decision shall become final.

(d) If a request for a time extension to submit a written argument or a request for an oral argument is received by the Chief Hearing Officer within 10 calendar days of the date the notice of the tentative decision is signed, an extension shall be granted and a letter shall be mailed stating the date the written argument is due or the date and time the oral argument shall be heard.

(e) If the party that requested oral argument fails to appear for the scheduled oral argument, the tentative decision shall become final.

(f) If arguments are presented within the timeframes established pursuant to Paragraphs (c) and (d) of this Rule, then all such arguments shall be considered, and a final decision shall be rendered.

(g) The final decision shall be served upon the appellant and the county department by certified mail. Decisions shall be sent by regular mail to representatives.

(h) A decision upholding the appellant shall be put into effect within two weeks after the county department's receipt of the final decision by certified mail.

(i) As provided for in 45 CFR 205.10 and G.S. 108A-79(k), the decision shall contain the appellant's right to seek judicial review.

History Note: Authority G.S. 108A-79; 143B-153; 45 CFR 205.10;
Eff. October 1, 1981;
Amended Eff. March 1, 1992; February 1, 1986;
Readopted Eff. September 1, 2019.

10A NCAC 67A .0206 GOOD CAUSE FOR NOT REQUESTING HEARING AND REQUIRED TIME FRAMES

(a) Except in the Supplemental Nutrition Assistance Program, an appellant shall request a local hearing within 60 days from the date of action unless he or she shows good cause. If the appellant shows good cause, the local hearing request must be made no later than the 90th day from the date of action.

(b) Except in the Supplemental Nutrition Assistance Program, an appellant shall request a state hearing within 15 days from the date the local hearing decision is mailed unless he or she shows good

cause. If the appellant shows good cause, the state hearing request must be made no later than the 90th day from the date of action.

(c) For purposes of G.S. 108A-79(e) for local hearings, good cause for not requesting a local hearing within 60 days from the date of action and for not requesting a state hearing within 15 days from the date the local decision is mailed shall include the following:

- (1) Failure of the appellant to receive the notification of the action to be taken pursuant to the local hearing decision;
- (2) Hospitalization of the appellant, spouse, child, stepchild or parent of the appellant;
- (3) Failure of a representative, acting on the appellant's behalf, to meet the time limitation to file an appeal in accordance with federal and State laws and regulations;
- (4) Illness that results in the appellant being incompetent or unconscious and no representative has been appointed;
- (5) Illness that results in the incapacity of the appellant;
- (6) Death of the appellant or his or her representative; or
- (7) Delay caused by the county, such as failing to assist the individual in filing an appeal, incorrectly providing information on appeal rights, or discouraging a request for appeal.

(d) The appellant shall provide evidence to substantiate good cause. Evidence may include:

- (1) Doctor's statement;
- (2) Hospital bill;
- (3) Written statement from the appellant's representative; or
- (4) Written statement of the appellant or other individual knowledgeable about the situation.

History Note: Authority G.S. 108A-79; 143B-153; 7 C.F.R. 273.15(g); 45 C.F.R. 205.10(a)(5)(iii); 42 C.F.R. 431.221(d); Temporary Adoption Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988; Eff. May 1, 1988; Amended Eff. March 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016; Amended Eff. September 1, 2019.

10A NCAC 68 .0101 PETITIONS

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Social Services Commission (hereinafter referred to as the commission) shall make his or her request through one of the following methods:

- (1) by electronic mail to SSSCommission@dhhs.nc.gov; or
- (2) by sending a written petition addressed to:
Director
Division of Social Services
Department of Health and Human Services

2401 Mail Service Center
Raleigh, North Carolina 27699-2401

(b) The petition, whether submitted electronically or by mail, shall contain the following information:

- (1) a draft of the proposed text changes if requesting the commission to create or amend a rule;
- (2) a statement of the effect the proposed rule change would have; and
- (3) the name and either the physical mailing address or electronic mail address of the petitioner.

(c) The petition may contain the following information:

- (1) the statutory authority for the agency to promulgate the rule;
- (2) the reasons for the proposal;
- (3) any data supporting the proposal;
- (4) the effect of the proposed rule on existing practices in the area involved, including cost factors; and
- (5) the names and addresses, if known, of those individuals or groups most likely to be affected by the proposed rule.

(d) The commission or its designee shall determine, based on a study of the facts stated in the petition, whether the public interest will be served by granting the petition. The commission or its designee shall consider all the contents of the submitted petition, plus any additional information it deems relevant.

(e) Within 120 days of submission of the petition, the commission or its designee shall render a decision to deny the petition or to initiate rulemaking proceedings pursuant to G.S. 150B-20.

History Note: Authority G.S. 143B-153; 150B-20; Eff. February 1, 1976; Readopted Eff. October 31, 1977; Amended Eff. March 1, 1990; Readopted Eff. September 1, 2019.

10A NCAC 68 .0102 NOTICE

(a) Any person or agency desiring to be placed on the physical mailing list in accordance with G.S. 150B-21.2(d) for Commission rulemaking notices must file a request in writing, furnishing his, her or its name and mailing address to:

Director
Division of Social Services
Department of Health and Human Services
2401 Mail Service Center
Raleigh, North Carolina 27699-2401

(b) Any person or agency desiring to be placed on the electronic mailing list in accordance with G.S. 150B-21.2(d) for Commission rulemaking notices must send an email to SSSCommission@dhhs.nc.gov.

History Note: Authority G.S. 143B-153; 150B-21.2; Eff. February 1, 1976; Readopted Eff. October 31, 1977; Amended Eff. August 3, 1992; March 1, 1990; Readopted Eff. September 1, 2019.

10A NCAC 68 .0107 FEES

Any person requesting printed material from Commission rulemaking records shall be charged a fee for the actual cost of making copies in accordance with G.S. 132-6.2. No fee shall be charged if the person requesting Commission rulemaking records agrees to receiving the records electronically.

History Note: Authority G.S. 143B-153; 132.6-2(b)
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
Readopted Eff. September 1, 2019.

10A NCAC 68 .0108 DECLARATORY RULINGS

(a) All requests for declaratory rulings shall be by written petition as described in Paragraph (b) of this Rule and shall be submitted to:

Director
 Division of Social Services
 Department of Health and Human Services
 2401 Mail Service Center
 Raleigh, North Carolina 27699-2401

(b) Every request for a declaratory ruling must include the following information:

- (1) the name and address of the petitioner;
- (2) the statute or rule to which the petition relates;
- (3) a statement of the manner in which the petitioner is aggrieved by the rule or statute or its potential application to him or her; and
- (4) the consequences of a failure to issue a declaratory ruling.

(c) Whenever the Commission finds good cause exists to deny the request for declaratory ruling, the Commission shall deny the request to issue a declaratory ruling. The Commission's refusal shall be followed within 30 days of the receipt of the petition, by the issuance of written notification to the petitioner. The notice shall state the decision and the reasons therefore.

(d) Good cause for the denial of a declaratory ruling request shall include one of the following:

- (1) the person submitting the request is not a person aggrieved;
- (2) there is no conflict or inconsistency within the Division regarding an interpretation of the law or a rule adopted by the Division;
- (3) a situation where there has been a similar controlling factual determination in a contested case;
- (4) if the request for declaratory ruling involves a factual context that was considered upon adoption of the rule being questioned as evidenced by the rulemaking record;
- (5) the factual representations are not related to the statute or rule being questioned;
- (6) issuing the declaratory ruling will not serve the public interest; or
- (7) if circumstances stated in the request or otherwise known to the Commission show that a contested case hearing would be appropriate.

(e) Where the Commission issues a declaratory ruling, the declaratory ruling shall be issued within 45 days after Commission's decision to grant the petition.

(f) A declaratory ruling procedure may consist of written submissions, oral hearings, or other procedure as deemed appropriate by the Commission based upon whether the additional submitted information would assist the Commission in determining whether to grant or deny the petition.

(g) The Commission may issue notice to persons who might be affected by the ruling that written comments or oral presentations may be submitted at a scheduled hearing if the Commission determines additional comments or presentations can provide assistance to the Commission in determining whether to grant or deny the petition.

History Note: Authority G.S. 143B-153; 150B-4;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
Readopted Eff. September 1, 2019.

10A NCAC 68 .0302 SELECTION OF COUNTY BOARD MEMBERS BY SOCIAL SERVICES COMM

The Commission shall appoint members of the county board of social services in accordance with G.S. 108A-3 through G.S. 108A-6. If a seat of a county board of social services member becomes vacant because of death, resignation, removal of the board member before the expiration of his or her term, or the member's term has expired, the Commission shall vote to replace the vacancy in accordance with G.S. 108A-3. The Commission shall vote to nominate a member for a county board of social services only if a quorum is present.

History Note: Authority G.S. 108A-3; 108A-4; 108A-5; 108A-6; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. September 1, 1991;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0101 DEFINITIONS

As used in this Chapter, the following definitions shall apply:

- (1) "Client" means any applicant for, or recipient of, public assistance or services, or someone who makes inquiries, is interviewed, or is or has been otherwise served to some extent by the agency. For purposes of this Chapter, someone acting on behalf of the client in accordance with their right to act on the client's behalf under a legal order, federal or State law is included under the definition of client.
- (2) "Agency" means the State Division of Social Services and the county departments of social services, unless separately identified.
- (3) "Client information" or "client record" means any information received in connection with the performance of any function of the agency,

including information stored in computer systems.

- (4) "Director" means the head of the State Division of Social Services or the county departments of social services.
- (5) "Delegated representative" means anyone designated by the director to carry out the responsibilities established by the rules in this Chapter. Designation is implied when the assigned duties of an employee require access to confidential information.
- (6) "Court order" means any order from a judge or a written document from a judicial employee that directs the release of client information.
- (7) "Service provider" means any public or private entity or individual from whom the agency purchases services, or authorizes the provision of services provided or purchased by other divisions of the Department of Health and Human Services.

History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0102 INFORMATION FROM OTHER AGENCIES

If the agency receives information from another entity or individual, then the information shall be treated as client information and disclosure thereof shall be governed by the rules of this Chapter.

History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0201 CONFLICT OF LAWS

Whenever there is inconsistency between federal regulations or state statutes addressing confidentiality issues, the agency shall abide by the federal regulation or state statute which provides more protection for the client. The agency shall make the determination as to which regulation or statute provides more protection for the client.

History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;
Amended Eff. March 1, 1990;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0202 OWNERSHIP OF RECORDS

- (a) All client information is the property of the agency, and employees of the agency shall keep this information confidential, except as provided by the rules of this Chapter.
- (b) Original client records shall not be removed from the premises by individuals other than agency staff authorized to access the client's records, except by a court order.

History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;

Readopted Eff. September 1, 2019.

10A NCAC 69 .0203 SECURITY OF RECORDS

- (a) The agency shall provide a secure place for the storage of client records. Only individuals who must access client information in order to carry out duties assigned or approved by the agency shall be authorized access to the storage area. For the purpose of this Chapter, secure means fixed, fastened or locked.
- (b) Only authorized individuals may remove a record from the storage area and the authorizing individual shall be responsible for the security of the record until it is returned to the storage area.
- (c) The agency shall establish procedures to prevent accidental disclosure of client information from automated data processing systems.
- (d) The director or his or her designee shall assure that all authorized individuals are informed of the confidential nature of client information and shall disseminate written policy and provide training for all persons with access to client information.

History Note: Authority G.S. 108A-80; 143B-153; 45 CFR 205.60;
Eff. October 1, 1981;
Amended Eff. March 1, 1990;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0204 ASSURANCE OF CONFIDENTIALITY

History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;
Repealed Eff. September 1, 2019.

10A NCAC 69 .0205 LIABILITY OF PERSONS WITH ACCESS TO CLIENT INFORMATION

- (a) Individuals employed by the agency and governed by the State Personnel Act are subject to suspension, dismissal, or disciplinary action for failure to comply with these Rules.
- (b) Individuals other than employees, including agents of the Department of Health and Human Services who have access to client information, shall be liable in the same manner as employees.

History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;
Amended Eff. February 1, 1986;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0301 RIGHT OF ACCESS

- (a) Confidentiality of information about himself or herself is the right of the client. Upon written or verbal request, the client shall be able to review or obtain without charge a copy of the information in his or her records with the following exceptions:
 - (1) information that the agency is required to keep confidential by state or federal statutes, rules, or regulations;
 - (2) confidential information originating from another agency as provided for in Rule .0102 of this Chapter; or

- (3) information that would breach another individual's right to confidentiality under State or federal statutes, rules, or regulations as determined by the agency.

(b) The agency shall provide access to the client's records within five business days after the receipt of the request.

History Note: Authority G.S. 108A-80; 143B-153; 45 CFR 205.60;

Eff. October 1, 1981;

Readopted Eff. September 1, 2019.

10A NCAC 69 .0302 PROMPT RESPONSE TO REQUEST

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981;

Repealed Eff. September 1, 2019.

10A NCAC 69 .0303 WITHHOLDING INFORMATION FROM THE CLIENT

(a) When the director or a delegated representative determines on the basis of the exceptions in Rule .0301 of this Subchapter to withhold information from the client record, this reason shall be documented in the client record.

(b) The director or a delegated representative must inform the client that information is being withheld, and upon which of the exceptions specified in Rule .0301 of this Subchapter the decision to withhold the information is based. If confidential information originating from another agency is being withheld, the client shall be referred to that agency for access to the information.

(c) When a delegated representative determines to withhold client information, the decision to withhold shall be reviewed by the supervisor of the person making the initial determination.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981;

Readopted Eff. September 1, 2019.

10A NCAC 69 .0304 PROCEDURES FOR REVIEW OF RECORDS

(a) The director or his or her delegated representative shall be present when the client reviews the record. The director or his or her delegated representative must document in the client record the review of the record by the client.

(b) A client may contest the accuracy, completeness, or relevancy of the information in his or her record. If the Division or county department of social services determines correction is required by federal statute or regulation to support receipt of State or federal participation, the correction of the contested information shall be accomplished by inserting it in the record when the director or his or her designee concurs that such correction is justified. When the director or his or her designee does not concur, the client shall be allowed to enter a statement in the record. Deletion of the contested information is not permitted. If a designee decides not to correct contested information, the decision not to correct shall be reviewed by the supervisor of the person making the initial decision. All corrections and statements shall be made a

permanent part of the record and shall be disclosed to any recipient of the disputed information.

(c) Upon written request from the client, his or her personal representative, including an attorney, may have access to review or obtain without charge, a copy of the information in his or her record. The client may permit the personal representative to have access to his or her entire record or may restrict access to certain portions of the record.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981;

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

Amended Eff. September 1, 2019.

**10A NCAC 69 .0305 CONTESTED INFORMATION
10A NCAC 69 .0306 REVIEW OF RECORD BY
PERSONAL REPRESENTATIVES**

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981;

Repealed Eff. September 1, 2019.

10A NCAC 69 .0401 PROCEDURE FOR OBTAINING CONSENT FOR RELEASE OF INFORMATION

(a) As a part of the application process for public assistance or services, the client shall be informed of the need for and give consent to the release of information necessary to verify statements to establish eligibility.

(b) As a part of the application process for Work First Family Assistance, or State or County Special Assistance for Adults, the client shall be informed of the requirement for listing of the public assistance recipient's name, address, and amount of the monthly grant in a public record open to public inspection during the regular office hours of the county auditor.

(c) No individual shall release any client information that is owned by the State Division of Social Services or the county departments of social services, or request the release of information regarding the client from other agencies or individuals, without obtaining a signed consent for release of information. The procedure for disclosure without obtaining consent shall be in accordance with Section .0500 of this Subchapter.

(d) The consent for release of information shall be on a form provided by the agency or shall contain the following:

- (1) The name of the provider and the recipient of the information;
- (2) The extent of information to be released;
- (3) The name and dated signature of the client;
- (4) A statement that the consent is subject to revocation at any time except to the extent that action has been taken in reliance on the consent; and
- (5) The length of time the consent is valid.

(e) The client may alter the form to contain other information, including:

- (1) A statement specifying the date, event, or condition upon which the consent may expire

- even if the client does not expressly revoke the consent; or
- (2) A specific purpose for the release.
- (f) The following persons may consent to the release of information:
 - (1) The client;
 - (2) The legal guardian if the client has been adjudicated incompetent; or
 - (3) The county department of social services if the client is a minor and in the custody of the county department of social services.
- (g) Prior to obtaining a consent for release of information, the director or delegated representative shall explain the meaning of informed consent. The client shall be told the following:
 - (1) Contents to be released;
 - (2) That the information is needed to verify eligibility;
 - (3) That the client can give or withhold the consent and the consent is voluntary; and
 - (4) That there are statutes, rules, and regulations protecting the confidentiality of the information.
- (h) Directors and their delegated representatives shall release client information in accordance with the Rules of this Section, court orders, and any applicable State statutes or federal regulations.
- (i) Whenever client information is disclosed, in accordance with rules of this Section, the director or delegated representative shall document the reason for the disclosure in the client record including placing a copy of the signed consent in the client record.

History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;
Amended Eff. March 1, 1990;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0402 CONSENT FOR RELEASE OF INFORMATION
10A NCAC 69 .0403 PERSONS WHO MAY CONSENT TO THE RELEASE OF INFORMATION
10A NCAC 69 .0404 INFORMED CONSENT
10A NCAC 69 .0405 PERSONS DESIGNATED TO RELEASE CLIENT INFORMATION
10A NCAC 69 .0406 DOCUMENTATION OF RELEASE

History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;
Repealed Eff. September 1, 2019.

10A NCAC 69 .0501 DISCLOSURE WITHIN THE AGENCY

- (a) Client information from the public assistance record may be disclosed without the consent of the client under the following circumstances:
 - (1) to other employees of the county department of social services for purposes of making referrals, supervision, consultation or determination of eligibility;

- (2) to other county departments of social services when the client moves to that county and requests public assistance; or
- (3) between the county departments of social services and the State Division of Social Services for purposes of supervision and reporting.
- (b) Client information from the service record may be disclosed without client consent under the following circumstances:
 - (1) to other employees of the county department of social services for purposes of making referrals, supervision, consultation or determination of eligibility;
 - (2) to another county department of social services when a different county department of social services is providing services to a client;
 - (3) to another county department of social services to the extent necessary to facilitate the provision of a service requested by a referring county department of social services; or
 - (4) between the county department of social services and the State Division of Social Services for purposes of supervision and reporting.

History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;
Amended Eff. March 1, 1990;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0502 DISCLOSURE FOR THE PURPOSE OF RESEARCH

Client information may be disclosed without client consent to individuals approved by the Department of Health and Human Services to conduct studies of client records. The request to conduct a study shall be in writing and be approved based upon:

- (1) an explanation of how the findings of the study may expand knowledge and improve professional practices;
- (2) a description of how the study will be conducted and how the findings will be used;
- (3) a description of the individual's credentials in the area of research;
- (4) a description of how the individual will safeguard information; and
- (5) a written assurance that no report will contain the names of individuals or any other information that makes individuals identifiable.

History Note: Authority G.S. 108A-80; 143B-153;45 CFR 205.50;
Eff. October 1, 1981;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0503 DISCLOSURE FOR PURPOSES OF ACCOUNTABILITY

Client information may be disclosed without the consent of the client to federal, State, or county employees for the purpose of monitoring, auditing, evaluating, or to facilitate the administration

of other State and federal programs, provided that the need for the disclosure of confidential information is justifiable for the purpose, as determined by the agency, and that safeguards, as described in 45 CFR 205.50, which is incorporated by reference with subsequent amendments and editions and available free of charge at <https://www.ecfr.gov/>, are maintained to protect the information from re-disclosure.

History Note: Authority G.S. 108A-80; 143B-153; 45 CFR 205.50;
Eff. October 1, 1981;
Amended Eff. March 1, 1990;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0504 DISCLOSURE PURSUANT TO OTHER LAWS

- (a) Client information may be disclosed without the consent of the client for purposes of complying with the rules of this Section, court orders, and any applicable State and federal regulations.
- (b) When information is released without the client's consent, the client shall be informed of the disclosure in writing to explain what information was released, how it was released, and how to contact the privacy official. The writing informing the client of the disclosure shall be documented in the record.

History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0505 DISCLOSURE PURSUANT TO A COURT ORDER
10A NCAC 69 .0506 NOTICE TO CLIENT
10A NCAC 69 .0507 DOCUMENTATION OF DISCLOSURE
10A NCAC 69 .0508 PERSONS DESIGNATED TO DISCLOSE INFORMATION

History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;
Repealed Eff. September 1, 2019.

10A NCAC 69 .0601 INFORMATION NEEDS OF SERVICE PROVIDERS

Agencies may disclose client information to service providers only to the extent necessary to determine the service requirements, and to provide eligibility information for reporting purposes.

History Note: Authority G.S. 108A-80; 143B-153; 45 CFR 205.60;
Eff. October 1, 1981;
Readopted Eff. September 1, 2019.

10A NCAC 69 .0603 ASSURANCE OF CONFIDENTIALITY

- (a) The State Division of Social Services shall provide written notification to county departments of social services, private agencies, and individual service providers of the confidential

nature of client information as set forth in the Rules of this Chapter and the applicable State and federal laws.

- (b) The county departments of social services shall provide written notification to private agencies and individual service providers of the confidential nature of client information as set forth in the rules of this Chapter and the applicable State and federal laws, when written notification has not been provided by the State Division of Social Services.

History Note: Authority G.S. 108A-80; 143B-153; 42 CFR 205.50; 42 CFR 205.60;
Eff. October 1, 1981;
Readopted Eff. September 1, 2019.

10A NCAC 72 .0102 DEFINITIONS

The following definitions shall apply in this Chapter:

- (1) "Academic Year" means a period of time in which a student completes the equivalent of two semesters or three quarters of academic work.
- (2) "Approved Institution" means one of the branches of the University of North Carolina or one of the North Carolina community colleges.
- (3) "Case Management Services" are a set of services provided to participating students and their families which are designed to support the student's postsecondary education experience. Such services include:
 - (a) processing and accepting applications for the program;
 - (b) certifying each eligible student and the amount of the Eligible Student's Scholarship and communicating this information to the North Carolina State Education Assistance Authority to authorize release of funds;
 - (c) compiling accurate databases of resources in the students' academic communities that can help students succeed in school;
 - (d) providing or arranging for counseling regarding academic issues as well as other concerns that may affect the performance of the student;
 - (e) communicating with and advising students on academic issues;
 - (f) providing contact with students throughout their postsecondary experience;
 - (g) responding to students experiencing crisis;
 - (h) providing or arranging for emergency housing up to two weeks for students who have no place to live when school is out of session;
 - (i) if allowed by the student, being available to consult with student's families and staff of local Departments

- (j) of Social Services regarding student's postsecondary experiences; monitoring grades and the individual's course of study, and evaluating progress toward goal achievement;
 - (k) maintaining records for each individual student regarding their academic progress and assistance provided; and
 - (l) providing quarterly program reports of case management services to the contract administrator at the State Division of Social Services.
- (4) "Cost of Attendance" Costs of attendance are defined by the Higher Education Act of 1965, which includes tuition, fees, room, board, supplies, transportation, and personal expenses. This amount is established by each institution. This grant is limited to cost of attendance less other grants or scholarships from federal, state, or other sources.
- (5) "Education Training Voucher" (ETV) means the Federal scholarship program funded by the John Chafee Foster Care Independence Act 42 U.S.C. 677, which benefits individuals who were in the custody of the Department of Social Services at or after age 17 or who were adopted or exited to guardianship on or after their 16th birthday.
- (6) "Eligible Student" means a student who:
 - (a) has received a high school diploma or GED and has not yet reached his or her 26th birthday;
 - (b) is pursuing an undergraduate degree, diploma, or certificate at an approved institution as a half-time student or a full-time student, as defined in 34 CFR 668.2;
 - (c) was in the custody of a North Carolina local Department of Social Services on his or her 18th birthday, or was adopted from the North Carolina foster care system on or after his or her 12th birthday; and
 - (d) is making satisfactory academic progress toward completion of the course of undergraduate study as defined in 34 CFR 668.34.
- (7) "Fiscal Year" means each annual period which begins on July 1 in any calendar year and ends on June 30 the following calendar year.
- (8) "Higher Education Act" means Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. 1070, et seq.
- (9) "Matriculated Status" means the student is recognized by the approved institution as a student in a defined program of study leading to an associate's degree, baccalaureate degree, diploma or certificate.

- (10) "Pell Grant" means the needs based scholarship program administered by the federal government to benefit low income baccalaureate and postgraduate students.
- (11) "Program" means the Postsecondary Educational Support Scholarship program, also known as NC Reach, established by Section 10.34(a) of Session Law 2007-323.
- (12) "Residence Manual" means the most current edition of A Manual to Assist the Public Higher Education Institutions of North Carolina in the Matter of Student Residence Classification for Tuition Purposes as adopted by the Board of Governors of the University of North Carolina and available free of charge at https://ncresidency.cfnc.org/residencyInfo/pdf/RDS_Guidebook.pdf.
- (13) "Scholarship" means an award for education awarded to an eligible student under the program.

History Note: Authority G.S. 143B-153; S.L. 2018-5; S.L. 2017-57; 34 CFR 668.34; Eff. June 1, 2008; Readopted Eff. September 1, 2019.

10A NCAC 72 .0201 GENERAL RULE

Subject to availability of funds a student shall receive a scholarship for an academic year if the approved institution at which the student is enrolled, or admitted for enrollment, determines that the student:

- (1) Meets the eligibility requirements as set forth in Rule .0102 of this Chapter;
- (2) Is a North Carolina resident for tuition purposes under G.S. 116-143.1 and the Residence Manual;
- (3) Has complied with the registration requirements of the Military Selective Service Act (50 U.S.C. A. 451 et seq.) or is exempt from registration requirements; and
- (4) Is not in default under any federal or state loan or grant program.

History Note: Authority G.S. 143B-153; S.L. 2018-5; S.L. 2017-57; Eff. June 1, 2008; Readopted Eff. September 1, 2019.

10A NCAC 72 .0202 SATISFACTORY PROGRESS REQUIREMENT

Any eligible student who is placed on academic probation may continue to receive a NC Reach scholarship for one additional semester if the approved institution allows the student to continue in matriculated status. If the student fails to make satisfactory academic progress in the semester or term subsequent to the term in which he or she received academic probation, NC Reach assistance shall be discontinued for at least one academic year.

History Note: Authority 34 CFR 668.34; G.S. 143B-153; S.L. 2018-5; S.L. 2017-57;
Eff. June 1, 2008;
Readopted Eff. September 1, 2019.

10A NCAC 72 .0203 LIMITATION OF AWARD

An eligible student shall not receive an NC Reach scholarship for more than a total of four academic years, to include the Spring and Fall terms and summer school.

History Note: Authority G.S. 143B-153; S.L. 2018-5; S.L. 2017-57;
Eff. June 1, 2008;
Readopted Eff. September 1, 2019.

10A NCAC 72 .0301 SCHOLARSHIP APPLICATION PROCEDURES

(a) Method of Applying for Scholarships. Students shall apply online for NC Reach through www.ncreach.org. The application shall include the applicant's personal information, education history, financial information, information release agreement, and electronic signature.

(b) Determination of eligible students. Eligibility for the NC Reach program shall be verified by employees of the State Division of Social Services.

(c) Scholarships within an Academic Year. An eligible student shall, subject to available funds, receive a scholarship for one or more semesters or quarters, provided that the eligible student's total financial aid, including from the Education Training Voucher, Pell Grant, and NC Reach Scholarship, does not exceed the total cost of attendance.

(d) Denial of Scholarship Applications. The entity providing case management services shall notify any student whose application is denied and the reasons for the denial.

History Note: Authority G.S. 143B-153; S.L. 2018-5; S.L. 2017-57;
Eff. June 1, 2008;
Readopted Eff. September 1, 2019.

TITLE 11 - DEPARTMENT OF INSURANCE

11 NCAC 08 .1601 DEFINITIONS

As used in this Section:

- (1) "Alternative inspection" means an inspection conducted by a Qualified Marketplace Inspector pursuant to G.S. 143-139.4 and the rules of this Section.
- (2) "Authority having jurisdiction" means an organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure.
- (3) "Engineering Services Division" or "ESD" means a division of the Office of State Fire Marshal responsible for the Administration of the North Carolina Building code and the State resources that support it.

- (4) "OSFM" means the Office of State Fire Marshal in the North Carolina Department of Insurance.
- (5) "Permit holder" means the individual with overall responsibility for the construction or renovation for which a permit has been applied for from the State or any city or county.
- (6) "Qualified Marketplace Inspector" means an inspector that is licensed by the North Carolina Code Officials Qualification Board pursuant to G.S. 143-151.12(9).
- (7) "Timely manner" means any requested inspection shall be performed by the close of business on the second day. Inspection requests received after 12:00 noon shall be deemed to have been received on the next business day.
- (8) "Other information" means information that will be used to determine whether to assign personnel to conduct the requested inspection. Such information includes, inspection reports showing permit holders exceeding 15 violations in a framing inspection for one-and two-family dwellings, documentation showing a permit holder has been not ready when inspections are requested, or pending legal issues.

History Note: Authority G.S. 143-139.4(a);
Eff. September 1, 2019.

11 NCAC 08 .1602 REQUEST FOR AN ALTERNATIVE INSPECTION

(a) Each request for an alternative inspection may request only one of the types of inspections outlined in G.S. 143-139(b). Any additional inspections, including a follow-up inspection, require a new written request by the permit holder.

(b) A permit holder may request an alternative inspection by submitting a written request to the Engineering Services Division of the Office of State Fire Marshal that contains, in addition to the requirements of G.S. 143-139.4(b), the following information:

- (1) Completed permit application from the authority having jurisdiction;
- (2) Proof of paid inspection fees to the authority having jurisdiction; and
- (3) Any other documentation required by the authority having jurisdiction.

(c) If a request for an alternative inspection is approved in accordance with G.S. 143-139.4(e), a Qualified Marketplace Inspector shall be assigned to conduct the inspection within one business day of the approval of such request.

(d) If a request for an alternative inspection is not filed in accordance with these Rules, or the request does not meet the requirements of G.S. 143-139.4(e), the request shall be denied and the requestor notified of the reasons for the denial.

(e) The Commissioner shall charge the permit holder a fee of sixty dollars (\$60.00) per hour for alternative inspections conducted pursuant to G.S. 143-139.4 and these Rules. The hourly rate shall not include the time travelling to and from inspections, although the Commissioner shall charge for reimbursement for the actual mileage costs of travelling to and from inspections at

the rate established under G.S. 138-6. The total fee shall be paid to the Commissioner no later than 30 days after completion of the alternative inspection.

(f) A permit holder who has paid the authority having jurisdiction for an inspection that has been conducted under these Rules may recoup the fees paid for alternative inspections in accordance with G.S. 153A-354 and G.S. 160A-414(b).

History Note: Authority G.S. 58-2-40(1a); 143-139.4(a);
Eff. Pending Consultation pursuant to G.S. 12-3.1.

11 NCAC 08 .1603 QUALIFIED MARKETPLACE INSPECTORS

(a) In order to conduct an alternative inspection in accordance with G.S. 143-139.4 and the rules of this Section, a Qualified Marketplace Inspector shall meet the requirements of a code enforcement official contained in 11 NCAC 08. 0706 for the type and size building requested to be inspected.

(b) A Qualified Marketplace Inspector shall be registered for temporary work with the North Carolina Office of State Human Resources, Temporary Solutions.

(c) A Qualified Marketplace Inspector shall be issued an identification badge by OSFM prior to beginning work. The Qualified Marketplace Inspector shall display his or her identification badge on his or her person at all times during the conduct of an alternative inspection.

(d) A Qualified Marketplace Inspector shall submit an inspection report to OSFM no later than one business day following the completion of the alternative inspection.

History Note: Authority G.S. 134-139.4;
Eff. September 1, 2019.

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 15A .0101 PURPOSE

The Alcoholic Beverage Control System shall provide regulation and control of the manufacture, distribution, advertisement, sale, possession and consumption of alcoholic beverages to serve the public health, safety and welfare in accordance with this Chapter.

History Note: Authority G.S. 18B-100; 18B-105; 18B-207;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0101 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

14B NCAC 15A .0102 LOCATION, ADDRESSES AND BUSINESS HOURS

The principal office of the North Carolina Alcoholic Beverage Control Commission is located at 400 East Tryon Road, Raleigh, North Carolina 27610. The mailing address is 4307 Mail Service Center, Raleigh, North Carolina 27699-4307. The telephone number is (919) 779-0700. The Commission's email address is contact@abc.nc.gov. The Commission's website address is

https://abc.nc.gov. The principal office is open to the public during regular business hours, from 8:00 a.m. to 5:00 p.m., Monday through Friday. Permit applications received after 3:00 p.m. shall not be processed until the following business day.

History Note: Authority G.S. 18B-100; 18B-207;
Eff. January 1, 1982;
Amended Eff. December 1, 2012; January 1, 2011; August 1, 2010; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0102 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019; February 1, 2019; April 1, 2018.

14B NCAC 15A .0103 DEFINITIONS

(a) The following definitions apply in this Chapter:

- (1) "Administrator" means the principal administrative officer of the Commission.
- (2) "Alcohol law enforcement agent" or "ALE agent" means an enforcement agent of the Alcohol Law Enforcement Branch, North Carolina Department of Public Safety.
- (3) "Applicant" means any person who requests the issuance of a permit from the Commission, unless the context clearly means otherwise.
- (4) "Brand," in relation to wines, means the name under which a wine is produced. A brand shall not be construed to mean a class or type of wine, but all classes and types of wines sold under the same brand label shall be considered a single brand. Differences in packaging such as a different style, type, or size of container shall not be considered different brands.
- (5) "Branded merchandise" means items, including glassware, cups, signs, t-shirts, hats, and other apparel, which bear the brand of the alcoholic beverage being served, or the brand of the brewery, winery, or distiller whose alcoholic beverages is being served, at a tasting conducted pursuant to G.S. 18B-1114.1, 18B-1114.5 or 18B-1114.7.
- (6) "Brokerage" means a business that brokers in the State the sale of spirituous liquor on behalf of a spirituous liquor supplier.
- (7) "Brokerage representative" means an individual who promotes spirituous liquor on behalf of a brokerage.
- (8) "Chairman" means the chairman of the Commission.
- (9) "Contractor" means the person or persons responsible for carrying out the storage and distribution of spirituous liquors at the State ABC warehouse.
- (10) "Distiller representative" means an individual who promotes spirituous liquor on behalf of a distiller, or otherwise represents a distiller.

- (11) "Distressed liquor" means liquor which is not saleable due to adulteration or damage to the bottle, label, or tax seal.
- (12) "Industry Member" means any wholesaler, salesman, brewery, winery, bottler, importer, liquor importer/bottler, distiller, distiller representative, brokerage, brokerage representative, supplier representative, rectifier, nonresident vendor, vendor representative, or affiliate thereof, that sells or solicits orders for alcoholic beverages, whether or not licensed in this State.
- (13) "Permittee" means a person to whom a permit has been issued by the Commission.
- (14) "Rectifier" means a permittee that processes spirituous liquor by cutting, blending, mixing, or infusing the spirituous liquor with any ingredient that reacts with the constituents of the distilled spirits and changes the character and nature, or standards of identity, of the distilled spirits. "Rectifier" does not include a person who extracts spirituous liquor by original or continuous distillation, or who mixes spirituous liquor with other ingredients for immediate consumption.
- (15) "Retail permittee" or "retailer" means any permittee holding a retail alcoholic beverage permit issued pursuant to the authority of G.S. 18B-1001 but does not include a non-profit or political organization that has been issued a special one-time permit pursuant to the provisions of G.S. 18B-1002(a)(2) or (5).
- (16) "State ABC warehouse" means the contractor-operated facility or facilities storing spirituous liquors on behalf of the Commission pursuant to G.S. 18B-204, or, in cases of emergency, the facility or facilities operated by the State for the purpose of storing spirituous liquors.
- (17) "Spirituous liquor supplier" means a distiller, liquor importer/bottler, or rectifier.
- (18) "Supplier representative" means, as the term is used in G.S. 18B-1114.7, an individual who promotes on behalf of a spirituous liquor supplier, or otherwise represents a spirituous liquor supplier.
- (19) "Vendor" means any brewery, winery, bottler, malt beverage or wine importer, or nonresident malt beverage vendor or nonresident wine vendor as those terms are used in G.S. 18B-1113 and 18B-1114.
- (20) "Vendor representative" means any person who holds a permit issued pursuant to G.S. 18B-1112.
- (21) "Wine" means both fortified wine and unfortified wine.

(b) The definitions in Chapter 18B apply to the rules in this Chapter.

History Note: Authority G.S. 18B-100; 18B-207;

Eff. January 1, 1982;

Amended Eff. November 1, 2010; May 1, 1984;

Transferred and Recodified from 04 NCAC 02R .0103 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;

Amended Eff. September 1, 2019.

14B NCAC 15A .0301 DISTRIBUTION, INSPECTION AND COPIES OF ABC LAWS

(a) Distribution of Rules and Statutes. The Commission shall distribute at no charge one copy of Chapter 18B of the General Statutes and the Commission's Rules to each local ABC board, each ALE agent, ABC officer and local law enforcement officer employed by a contracting agency pursuant to G.S. 18B-501(f).

(b) Purchasing Copies of Documents. Copies of the following documents are available from the Commission:

- (1) Chapter 18B of the General Statutes and the Commission's Rules;
- (2) ABC Retail Guide; and
- (3) Public records retained by the Commission.

Copies of the above documents are available at the "actual cost" as defined in G.S. 132-6.2(b) for making the copies and the mailing cost, if applicable. The Commission shall provide its "actual cost" of documents specified under Subparagraphs (b)(1) and (2) of this Rule on the Commission's website. Persons requesting copies of the above documents shall make payment by certified check, cashier's check, money order, or credit card to the Commission prior to receiving any copies of the above documents.

(c) Online Documents. Copies of Chapter 18B of the General Statutes and Commission rules, forms, minutes and reports shall be made accessible online on the Commission's website without charge at <https://abc.nc.gov/>.

History Note: Authority G.S. 12-3.1; 18B-100; 18B-207;

Eff. July 1, 1992;

Amended Eff. November 1, 2010;

Transferred and Recodified from 04 NCAC 02R .0303 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;

Amended Eff. September 1, 2019.

14B NCAC 15A .0302 FEE FOR COMPUTER SERVICES

Fees for data processing services shall be determined by the Commission in accordance with G.S. 132-6.2(b) and shall be paid in advance by certified check, cashier's check, money order, or credit card. The requester shall request and receive a quote from the Commission prior to payment of requested services.

History Note: Authority 18B-100; 18B-207; 132.6.2; 150B-19(5)(e);

Eff. July 1, 1992;

Amended Eff. November 1, 2010;

Transferred and Recodified from 04 NCAC 02R .0304 Eff. August 1, 2015;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.*

14B NCAC 15A .0401 PETITION FOR ADOPTION OF RULES

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the Commission shall address the petition to the North Carolina Alcoholic Beverage Control Commission, Chief Counsel, 4307 Mail Service Center, Raleigh, North Carolina 27699-4307.

(b) Contents. In addition to the proposed text of the requested rule change, a statement of the effect of the change, and the name and address of each petitioner, the petition may also contain the following information:

- (1) summary of the proposed rule's contents;
- (2) reasons for the adoption, amendment or repeal of the proposed rule;
- (3) citation of authorities showing the legality of the proposed adoption, amendment or repeal of the rule;
- (4) effect of existing rules or orders;
- (5) any data supporting the proposal; and
- (6) effect of existing rules on existing practices in the area involved.

*History Note: Authority G.S. 18B-100; 18B-207; 150B-20(a); Filed November 24, 1981;
Legislative Delay Eff. December 31, 1981;
Eff. January 12, 1982;
Amended Eff. August 1, 2010; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0402 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.*

14B NCAC 15A .0402 ADMINISTRATIVE ACTION

Based on a study of the petition and other supporting material submitted in accordance with Rule .0401(b) of this Section, the Commission shall deny the petition or initiate rule-making proceedings within a reasonable time following submission of the petition.

*History Note: Authority G.S. 18B-100; 18B-207; 150B-20; Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0403 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.*

14B NCAC 15A .0403 NOTICE OF RULE-MAKING HEARINGS; MAILING LIST

Mailing List. Any person desiring to be placed on the mailing list in accordance with G.S. 150B-21.2(d) for the rule-making notices may file a request in writing, furnishing the person's name, email and mailing address to the Commission.

*History Note: Authority G.S. 18B-100; 18B-207; 150B-21.2; Eff. January 1, 1982;
Amended Eff. July 1, 1992; August 1, 1988; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0404 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.*

14B NCAC 15A .0404 RULE-MAKING HEARING

(a) Location. Unless otherwise stated in a particular rule-making notice, rule-making hearings shall be held in the administrative hearing room of the Commission's principal office.

(b) Oral Presentations. Any person desiring to present oral data, views or arguments on the proposed rule shall file a written notice of that desire with the Legal Division of the Commission. The notice of the oral presentation may contain a brief summary of the individual's or organization's views with respect to the proposed adoption, amendment or repeal of a rule, and a statement of the length of time the speaker would like to speak.

(c) The Chairman shall preside at the rule-making hearing and shall ensure that each person participating is given an opportunity to present oral arguments, comments and data supporting the person's position. The Chairman in open session may set the time limits on oral presentations during the hearing based on the number of people wishing to speak and the amount of time allocated to the public hearing.

*History Note: Authority G.S. 18B-100; 18B-207; 150B-21.2(e); Eff. January 1, 1982;
Amended Eff. July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0405 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.*

14B NCAC 15A .0501 REVOCATION OR SUSPENSION OF PERMIT

The Commission may revoke or suspend the permit of any person who violates any order of the Governor issued pursuant to G.S. 18B-110 when the sale of alcoholic beverages is suspended in any area of the State pursuant to a state of emergency as declared by the Governor in accordance with Article 1A of Chapter 166A of the General Statutes.

*History Note: Authority G.S. 18B-110; 18B-104; 18B-207; Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0502 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.*

14B NCAC 15A .0605 WITHDRAWAL OF REQUEST FOR DECLARATORY RULING

A petitioner may ask for a withdrawal of that person's request for a declaratory ruling by filing a written request with the Commission at any time prior to the issuance of a ruling. Upon this request, the Commission shall permit an aggrieved party to withdraw the request for a declaratory except when the Commission determines that other persons regulated by this Rule would benefit from the ruling.

History Note: Authority G.S. 18B-100; 18B-207; 150B-4; Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02R .0607 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

14B NCAC 15A .0701 DISCIPLINARY ACTION OF EMPLOYEE

History Note: Authority G.S. 18B-100; 18B-202; 18B-207; Eff. January 1, 1982;
Amended Eff. May 1, 1984;
RRC Objection due to lack of authority and lack of necessity Eff. May 21, 1992;
Amended Eff. July 6, 1992;
Transferred and Recodified from 04 NCAC 02R .0702 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Repealed Eff. September 1, 2019.

14B NCAC 15A .0801 NOTICE OF ALLEGED VIOLATION

If facts reported by a law enforcement officer indicate a violation of the ABC laws, the Commission shall send a notice of alleged violation to the permittee. Service of the notice of alleged violation shall be deemed complete in accordance with G.S. 1A-1, Rule 5(b). The permittee's address as stated on the permit shall be considered the permittee's last known address.

History Note: Authority G.S. 18B-100; 18B-203(a)(12); 18B-207; Eff. January 1, 1982;
Amended Eff. February 1, 2012; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .0802 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

14B NCAC 15A .0805 ARTICLE 12 HEARINGS; FINAL ADMINISTRATIVE DECISION; ORDER

(a) Right to Submit Proposed Findings. The parties in a hearing conducted under Article 12 of Chapter 18B of the General Statutes shall have an opportunity to file proposed findings of fact and conclusions of law within 30 days of the conclusion of the initial hearing.

(b) Recommended Decision. If a hearing conducted under Article 12 is presided over by a hearing officer, the hearing officer shall issue a recommended decision that contains proposed findings of fact and conclusions of law. The hearing officer shall serve a copy of the recommended decision upon all parties and the members of the Commission who will make the final administrative decision. Service shall be in the manner prescribed in Rule .0803(c) of this Section.

(c) Exceptions. The parties to a case heard under Article 12 shall have the right to file written exceptions to a recommended decision by the hearing officer. Exceptions shall be filed with the Commission within 30 days of receipt of the recommended decision.

(d) Hearing Conducted by Commission. In lieu of assigning a hearing officer to preside over the initial hearing, the Commission may conduct the initial hearing. After the time for the filing of proposed findings of fact and conclusions of law by the parties has expired, the Commission will issue a final administrative decision and order that determines the issues set forth in any pre-hearing order.

(e) Petition to Office of Administrative Hearings. In any case heard by the Commission under Article 12 of Chapter 18B of the General Statutes, if the Commission finds evidence of violations of Article 12 of Chapter 18B, or any other ABC law, it may commence proceedings in accordance with the provisions of Rule .0801 of this Section.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1205; 18B-1207(c); Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .0823 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. September 1, 2019.

14B NCAC 15C .0101 DEFINITIONS

History Note: Authority G.S. 18B-100; 18B-101; 18B-207; 18B-1112; 18B-1113; 18B-1114; 18B-1116; Eff. January 1, 1982;
Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0101 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Repealed Eff. September 1, 2019.

14B NCAC 17 .0201 APPLICATION FOR LICENSE

(a) Each applicant for a license shall submit an online application on the website provided by the Board. When this online application is submitted, it shall be accompanied by:

- (1) one set of classifiable fingerprints on an F.B.I. fingerprint card provided by the Board and mailed separately to the Board's office;
- (2) one head and shoulders digital photograph of the applicant in JPG format of sufficient quality

for identification, taken within six months prior to the online submission, and uploaded with the application submission;

- (3) statements of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74D-2.1(a) for any state where the applicant has resided within the preceeding 60 months; and
- (4) the applicant's application fee, along with a four dollar (\$4.00) convenience fee charged by the third-party vendor and credit card transaction fee charged by the applicant's credit card provider and collected online.

(b) Each applicant shall upload evidence of high school graduation either by diploma, G.E.D. certificate, or other equivalent documentation.

(c) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the Director, or a Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74D and the administrative rules in this Chapter during the personal meeting. The applicant shall sign a form provided by the Board stating that the applicant has reviewed the information with the Board's representative and that the applicant understands G.S. 74D and the administrative rules in this Chapter.

(d) Each applicant for a branch office license shall submit an online application on the website provided by the Board. This online application shall be accompanied by the branch office application fee.

History Note: Authority G.S. 74D-2; 74D-2.1; 74D-3; 74D-5; 74D-7; 74D-8

Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984;

Eff. May 1, 1984;

Amended Eff. December 1, 2012; February 1, 2012; January 1, 2007; September 1, 2006; March 1, 1993; July 1, 1987; January 1, 1986;

Transferred and Recodified from 12 NCAC 11 .0201 Eff. July 1, 2015;

Amended Eff. December 1, 2017;

Readopted Eff. June 1, 2018;

Amended Eff. September 1, 2019.

14B NCAC 17 .0203 FEES FOR LICENSE

(a) Application license fees are as follows plus a four dollar (\$4.00) convenience fee charged by the third-party vendor and credit card transaction fee charged by the applicants credit card provider and collected online:

- (1) one hundred fifty dollars (\$150.00) non-refundable initial application fee.
- (2) five hundred dollar (\$500.00) biennial fee for a new or renewal license.
- (3) one hundred fifty dollars (\$150.00) branch office license fee.
- (4) one hundred dollars (\$100.00) late renewal fee to be paid in addition to the renewal fee if the license has not been renewed on or before the expiration date.

(b) Fees shall be paid by credit card, or electronic funds transfer.

History Note: Authority G.S. 74D-7;

Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984;

Eff. May 1, 1984;

Amended Eff. January 1, 1986;

Temporary Amendment Eff. October 6, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. February 1, 2010; March 1, 1993;

Transferred and Recodified from 12 NCAC 11 .0203 Eff. July 1, 2015;

Amended Eff. January 1, 2018;

Readopted Eff. June 1, 2018;

Amended Eff. September 1, 2019.

14B NCAC 17 .0204 RENEWAL OF LICENSE

(a) Each applicant for a license renewal shall submit an online renewal application on the website provided by the Board. This online application shall be submitted not less than 30 days prior to expiration of the applicant's current license and shall be accompanied by:

- (1) statements of the result of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74D-2.1 for any state where the applicant has resided within the preceeding 24 months;
- (2) the applicant's renewal fee as set forth in .0203(a)(2); and
- (3) proof of liability insurance pursuant to G.S. 74D-9.

(b) Applications for renewal shall be submitted not less than 30 days before the expiration date of the license. No renewal shall be granted more than 90 days after the date of expiration of a license.

(c) Applications for renewal submitted after the expiration date of the license shall be accompanied by the late renewal fee established by Rule .0203 of this Section and shall be submitted not later than 90 days after the expiration date of the license.

(d) The Director shall review and approve or recommend denial of an application for renewal. All denials shall be submitted to the Board for a final Board decision.

(e) Members of the armed forces whose licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall be granted the same extension of time to pay the license renewal fee and to complete the continuing education requirements prescribed in Section .0500 of this Chapter. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

History Note: Authority G.S. 74D-2(a); 74D-5; 74D-7; 93B-15;

Eff. January 1, 1995;

Temporary Adoption Eff. May 18, 1995;

Amended Eff. February 1, 2012; July 1, 2010; May 1, 1999; October 1, 1995;

Transferred and Recodified from 12 NCAC 11 .0204 Eff. July 1, 2015;

*Amended Eff. April 1, 2018;
Readopted Eff. June 1, 2018;
Amended Eff. September 1, 2019.*

14B NCAC 17 .0209 COMPANY BUSINESS LICENSE

(a) Any firm, association, or corporation required to be licensed pursuant to G.S. 74D-2(a) shall upload an application for a company business license on a form on the website provided by the Board. A sole proprietorship that is owned and operated by an individual holding a current alarm systems business license shall be exempt from this Rule. This application form shall include such information as the firm, association, or corporation name; the address of its principal office within the State; all past convictions for criminal offenses of any company director or officer; information concerning the past revocation, suspension, or denial of a business or professional license to any director or officer; a list of all directors and officers of the firm, association, or corporation; a list of all persons, firms, associations, corporations, or other entities owning 10 percent or more of the outstanding shares of any class of stock; and the name and address of the qualifying agent.

(b) In addition to the items required in Paragraph (a) of this Rule, an out-of-state company shall file with its license application form a copy of its certificate of authority to transact business in this state issued by the North Carolina Secretary of State, in accordance with G.S. 55-15-01, and a consent to service of process and pleadings that is authenticated by its company seal and accompanied by a duly-certified copy of the resolution of the board of directors authorizing the proper officer or officers to execute this consent.

(c) After filing a completed online application with the Board, the Board shall conduct a background investigation to ascertain if the qualifying agent is in a management position. The Board shall also determine if the directors or officers have the requisite good moral character as defined in G.S. 74D-6(3). It shall be prima facie evidence of good moral character if a director or officer has not been convicted by any local, State, federal, or military court of any crime involving the use, carrying, or possession of a firearm; conviction of any crime involving the use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage; conviction of a crime involving assault or an act of violence; conviction of a crime involving breaking or entering, burglary, larceny, or any offense involving moral turpitude; or does not have a history of addiction to alcohol or a narcotic drug. For the purposes of this Section, "conviction" means and includes the entry of a plea of guilty, no contest, or a verdict rendered in open court by a judge or jury.

(d) Upon completion of the background investigation, a company business license shall be issued if all requirements of this Rule are met. A company business license issued by the Board shall be displayed at the principal place of business within North Carolina.

(e) The company business license shall be issued only to a corporation and shall not be construed to extend to a licensing of its directors, officers, or employees.

(f) The issuance of the company business license is issued to the firm, association, or corporation in addition to the license issued to the qualifying agent. The qualifying agent for the firm, association, or corporation that has been issued the company

business license shall be responsible for assuring compliance with G.S. 74D.

(g) Within 90 days of the death of a licensee, the existing qualifying agent or a newly designated replacement qualifying agent for the company may submit a written request to the Board, asking that the deceased licensee's license number remain on company advertisements. The Board shall permit the use of the deceased licensee's license number only if the current qualifying agent's license number is printed adjacent to and in the same size print as the deceased licensee's license number.

History Note: Authority G.S. 74D-2(a); 74D-5;

Eff. November 1, 1993;

Amended Eff. July 1, 2005; March 1, 1995;

Transferred and Recodified from 12 NCAC 11 .0209 Eff. July 1, 2015;

Readopted Eff. June 1, 2018;

Amended Eff. September 1, 2019.

14B NCAC 17 .0301 APPLICATION FOR REGISTRATION

(a) Each licensee or qualifying agent shall submit an online application for the registration of his or her employee on the website provided by the Board. When this online application is submitted, it shall be accompanied by:

- (1) one set of classifiable fingerprints on a standard F.B.I. fingerprint card mailed separately to the Board's office;
- (2) one original signed S.B.I. release of information form uploaded online and the original mailed separately to the Board's office;
- (3) one head and shoulders digital photograph of the applicant of acceptable quality for identification, taken within six months prior to online submission, and uploaded with the application submission;
- (4) statements of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74D-2.1(a) for any state where the applicant has resided within the preceding 60 months;
- (5) the registration fee required by Rule .0302 of this Section, along with a four dollar (\$4.00) convenience fee charged by the third-party provider and credit card transaction fee charged by the applicant's credit card provider and collected online; and
- (6) a completed affidavit form and public notice statement form.

(b) The employer of an applicant who is currently registered with another alarm business shall complete an online application form provided by the Board. This form shall be accompanied by the applicant's multiple registration fee along with a four dollar (\$4.00) convenience fee charged by the third-party provider and credit card transaction fee charged by the applicant's credit card provider and collected online. This online application shall be accompanied by a completed affidavit form and public notice statement form.

(c) The employer of each applicant for registration shall print and retain a copy of the applicant's online application in the individual applicant's personnel file in the employer's office.

History Note: Authority G.S. 74D-2.1; 74D-5; 74D-8; Temporary Rule Eff. January 9, 1984 for a Period of 120 Days to Expire on May 7, 1984; Eff. May 1, 1984; Amended Eff. December 1, 2012; January 1, 2007; July 1, 1993; March 1, 1993; September 1, 1990; November 1, 1988; Transferred and Recodified from 12 NCAC 11 .0301 Eff. July 1, 2015; Amended Eff. December 1, 2017; Readopted Eff. June 1, 2018; Amended Eff. September 1, 2019.

14B NCAC 17 .0302 FEES FOR REGISTRATION

(a) Registration fees are as follows, plus a four dollar (\$4.00) convenience fee charged by the third-party vendor and credit card transaction fee charged by the applicant's credit card provider and collected online.

- (1) Fifty dollar (\$50.00) non-refundable biennial registration fee.
- (2) Ten dollar (\$10.00) non-refundable fee for registration of an employee who changes employment to another licensee.
- (3) Ten dollar (\$10.00) non-refundable annual multiple registration fee.
- (4) Twenty dollar (\$20.00) late renewal fee to be paid for an application submitted no more than 30 days from the date the registration expires and to be paid in addition to the renewal fee.

(b) Fees shall be paid by credit card, or electronic funds transfer.

History Note: Authority G.S. 74D-7; Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984; Eff. May 1, 1984; Amended Eff. January 1, 1986; Temporary Amendment Eff. October 6, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. May 1, 2010; February 1, 2010; April 1, 2005; March 1, 1993; Transferred and Recodified from 12 NCAC 11 .0302 Eff. July 1, 2015; Amended Eff. January 1, 2018; Readopted Eff. June 1, 2018; Amended Eff. September 1, 2019.

14B NCAC 17 .0306 RENEWAL OR REREGISTRATION OF REGISTRATION

(a) Each applicant for renewal of a registration identification card or his or her employer shall complete an online form on the website provided by the Board. This online form shall be submitted not less than 90 days prior to expiration of the applicant's current card and shall be accompanied by:

- (1) one digital head and shoulders color photograph of the applicant of acceptable quality for

identification and made within 90 days of the application uploaded online with application submission;

- (2) statements of the result of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74D-2.1(a) for any state where the applicant has resided within the preceding 24 months; and
- (3) the applicant's renewal fee, along with the four dollar (\$4.00) convenience fee charged by the third-party vendor and credit card transaction fee charged by the applicant's credit card provider and collected online.

(b) Each licensee shall provide each applicant for registration or re-registration a copy of the online submitted application form provided by the Board. This form shall be submitted to the Board online and accompanied by:

- (1) one digital head and shoulders color photograph of the applicant of acceptable quality for identification and made within 90 days of the application uploaded online with the application submission; and
- (2) the applicant's registration fee, along with the four dollar (\$4.00) convenience fee charged by the third-party vendor and credit card transaction fee charged by the applicant's credit card provider and collected online.

(c) The employer of each applicant for a registration renewal or reregistration shall give the applicant a copy of the online application which will serve as a record of application for renewal and shall retain a copy of the applicant's online renewal application in the individual's personnel file in the employer's office.

(d) Members of the armed forces whose registrations are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the registration renewal fee and to complete the continuing education requirements prescribed by Section .0500 of this Chapter. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue must be furnished to the Board.

History Note: Authority G.S. 74D-7; 74D-8; 93B-15; Temporary Rule Eff. January 9, 1984, for a Period of 120 Days to Expire on May 7, 1984; Eff. May 1, 1984; Amended Eff. February 1, 2012; July 1, 2010; March 1, 1993; December 1, 1988; July 1, 1987; Transferred and Recodified from 12 NCAC 11 .0306 Eff. July 1, 2015; Readopted Eff. June 1, 2018; Amended Eff. September 1, 2019.

14B NCAC 17 .0502 REQUIRED CONTINUING EDUCATION HOURS

Each licensee shall complete a minimum of six credit hours of continuing education training during each two-year renewal period. Each registrant shall complete a minimum of three credit hours of continuing education training during each renewal

period. Only registrants who engage in installation, service, sales, or monitoring of alarm systems shall be required to complete the continuing education requirements. Credit shall be given only for classes that have been preapproved by the Board. A licensee or registrant who attends a complete meeting of a regularly scheduled meeting of the Alarm Systems Licensing Board shall receive three credit hours for each meeting that the licensee or registrant attends. The Board-approved continuing education form(s) showing the credit hours earned must be uploaded online and submitted with each licensee or registrant's online application submission.

*History Note: Authority G.S. 74D-2; 74D-5;
Eff. May 1, 1999;
Amended Eff. July 18, 2002;
Transferred and Recodified from 12 NCAC 11 .0502 Eff. July 1, 2015;
Readopted Eff. June 1, 2018;
Amended Eff. September 1, 2019.*

14B NCAC 17 .0505 RECORDING AND REPORTING CONTINUING EDUCATION CREDITS

(a) Each licensee shall be responsible for recording and reporting continuing education credits to the Board at the time of license or registration renewal. For each course taken, the report shall include a certificate of course completion that is signed by at least one course instructor, states the name of the licensee or registrant who completed the course, states the date of course completion, and states the number of hours taken by the licensee or registrant. Credit shall not be given if a certificate of course completion is dated more than two years from the license or registration permit renewal date. Each course instructor shall maintain a course roster and shall verify the identity of each participant by a government issued photo identification, such as a driver's license. This roster shall be delivered to the Board's office within two weeks of the completion date of the course.

(b) All online applications for renewal of a license or registration permit shall have CE Certificates uploaded, verifying completion of the required number of credit hours. If an applicant is filing an application designated as "new" and the applicant has been licensed or registered for any period of time within the previous two years, the applicant shall upload CE Certificates verifying completion of the required number of credit hours. An applicant shall not be required to submit a CE Certificate if the applicant is filing an application designated as a "transfer" or "duplicate" and if the applicant has a current registration card issued by the Board.

*History Note: Authority G.S. 74D-2; 74D-5;
Eff. May 1, 1999;
Amended Eff. March 1, 2006; March 1, 2004; July 18, 2002;
Transferred and Recodified from 12 NCAC 11 .0505 Eff. July 1, 2015;
Readopted Eff. June 1, 2018.
Amended Eff. September 1, 2019.*

15A NCAC 02B .0621 WATER SUPPLY WATERSHED PROTECTION PROGRAM: DEFINITIONS

In addition to the definitions set forth in G.S. 143-214.7, the following definitions shall apply to Rules .0622 - .0624.

- (1) "Balance of Watershed" or "-BW" means the area adjoining and upstream of the critical area in a WS-II and WS-III water supply watershed. The "balance of watershed" is comprised of the entire land area contributing surface drainage to the stream, river, or reservoir where a water supply intake is located.
- (2) "Cluster development" means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single family residential and multi family developments. Planned unit development and mixed use development shall be considered as cluster development.
- (3) "Commission" has the same meaning as in 15A NCAC 02H .1002.
- (4) "Common plan of development" has the same meaning as in 15A NCAC 02H .1002.
- (5) "Critical area" has the same meaning as in 15A NCAC 02B .0202.
- (6) "Curb Outlet System" has the same meaning as in 15A NCAC 02H .1002.
- (7) "Dispersed flow" has the same meaning as in 15A NCAC 02H .1002.
- (8) "Division" has the same meaning as in 15A NCAC 02H .1002.
- (9) "Erosion and Sedimentation Control Plan" has the same meaning as in 15A NCAC 02H .1002.
- (10) "Existing development" has the same meaning as in 15A NCAC 02H .1002.
- (11) "Family subdivision" means a division of a tract of land:
 - (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or
 - (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.
- (12) "Geotextile fabric" has the same meaning as in 15A NCAC 02H .1002.
- (13) "Intermittent stream" means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the perched or seasonal high water table. The flow may be supplemented by stormwater runoff. An intermittent stream often lacks the biological

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- and hydrological characteristics commonly associated with the continuous conveyance of water.
- (14) "Major variance" means a variance that is not a "minor variance" as that term is defined in this Rule.
- (15) "Minimum Design Criteria" or "MDC" has the same meaning as in 15A NCAC 02H .1002.
- (16) "Minor variance" means a variance from the minimum statewide watershed protection rules that results in the relaxation of up to 10 percent of any vegetated setback, density, or minimum lot size requirement applicable to low density development, or the relaxation of up to five percent of any vegetated setback, density, or minimum lot size requirement applicable to high density development. For variances to a vegetated setback requirement, the percent variation shall be calculated using the foot print of built-upon area proposed to encroach within the vegetated setback divided by the total area of vegetated setback within the project.
- (17) "Nonconforming lot of record" means a lot described by a plat or a deed that was recorded prior to the effective date of local watershed ordinance (or its amendments) that does not meet the minimum lot size or other development requirements of Rule .0624 of this Section.
- (18) "NPDES" has the same meaning as in 15A NCAC 02H .1002.
- (19) "Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the perched or seasonal high water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.
- (20) "Perennial waterbody" means a natural or man-made watershed that stores surface water permanently at depths sufficient to preclude growth of rooted plants, including lakes, ponds, sounds, non-stream estuaries and ocean.
- (21) "Primary SCM" has the same meaning as in 15A NCAC 02H .1002.
- (22) "Project" has the same meaning as in 15A NCAC 02H .1002.
- (23) "Protected area" has the same meaning as in 15A NCAC 02B .0202.
- (24) "Required storm depth" has the same meaning as in 15A NCAC 02H .1002.
- (25) "Runoff treatment" has the same meaning as in 15A NCAC 02H .1002.
- (26) "Runoff volume match" has the same meaning as in 15A NCAC 02H .1002.
- (27) "Secondary SCM" has the same meaning as in 15A NCAC 02H .1002.
- (28) "Stormwater Control Measure" or "SCM" has the same meaning as in 15A NCAC 02H .1002.
- (29) "Vegetated setback" has the same meaning as in 15A NCAC 02H .1002.
- (30) "Vegetated conveyance" has the same meaning as in 15A NCAC 02H .1002.

*History Note: Authority G.S. 143-214.1; 143-214.5; 143-215.3(a)(1);
Eff. March 1, 2019 (Portions of this Rule were previously codified in 15A NCAC 02B .0202);
Amended Eff. September 1, 2019.*

15A NCAC 02B .0624 WATER SUPPLY WATERSHED PROTECTION PROGRAM: NONPOINT SOURCE AND STORMWATER POLLUTION CONTROL

This Rule sets forth requirements for projects that are subject to water supply watershed regulations.

- (1) **IMPLEMENTING AUTHORITY.** The requirements of this Rule shall be implemented by local governments with land use authority in one or more designated water supply watersheds. State agencies shall also comply with this Rule insofar as required by G.S. 143-214.5 and in accordance with Rule .0622 of this Section.
- (2) **APPLICABILITY.** This Rule shall apply to all new development projects, including state owned projects, that lie within a designated water supply watershed, except in a Class WS-IV watershed where this Rule applies only to new development projects that require an Erosion and Sedimentation Control Plan. Rule .0622 of this Section includes project types to which rules do not apply.
- (3) **PROJECT DENSITY.** The following maximum allowable project densities and minimum lot sizes shall apply to a project according to the classification of the water supply watershed where it is located, its relative location in the watershed, its project density, and the type of development:

APPROVED RULES

Water Supply Classification	Location in the Watershed	Maximum Allowable Project Density or Minimum Lot Size		
		Low Density Development		High Density Development
		Single-family detached residential	Non-residential and all other residential	All types
WS-I	Not Applicable: Watershed shall remain undeveloped except for the following uses when they cannot be avoided: power transmission lines, restricted access roads, and structures associated with water withdrawal, treatment, and distribution of the WS-I water. Built-upon area shall be designed and located to minimize stormwater runoff impact to receiving waters.			
WS-II	Critical Area	1 dwelling unit per 2 acres or 80,000 square foot lot excluding roadway right-of-way or 6% built-upon area	6% built-upon area	6 to 24% built-upon area
	Balance of Watershed	1 dwelling unit per 1 acre or 40,000 square foot lot excluding roadway right-of-way or 12% built-upon area	12% built-upon area	12 to 30% built-upon area
WS-III	Critical Area	1 dwelling unit per 1 acre or 40,000 square foot lot excluding roadway right-of-way or 12% built-upon area	12% built-upon area	12 to 30% built-upon area
	Balance of Watershed	1 dwelling unit per one-half acre or 20,000 square foot lot excluding roadway right-of-way or 24% built-upon area	24% built-upon area	24 to 50% built-upon area
WS-IV	Critical Area	2 dwelling units per acre or 20,000 square foot lot excluding roadway right-of-way or 24% built-upon area	24% built-upon area	24 to 50% built-upon area
	Protected Area	2 dwelling units per acre or 20,000 square foot lot excluding roadway right-of-way or 24% built-upon; or 3 dwelling units per acre or 36% built-upon area without curb and gutter street system	24% built-upon area; or 36% built-upon area without curb and gutter street system	24 to 70% built-upon area
WS-V	Not Applicable			

(4) **CALCULATION OF PROJECT DENSITY.** The following requirements shall apply to the calculation of project density:

- (a) Project density shall be calculated as the total built-upon area divided by the total project area;
- (b) A project with "existing development," as that term is defined in Rule .0621 of this Section, may use the calculation method in Sub-Item (a) of this Item or may calculate project density as the difference of total built-upon area minus existing built-upon area divided by the difference of total project area minus existing built-upon area. Expansions to existing development shall be subject to this Rule except as excluded in Rule .0622(1)(d) of this Section. Where there is a net increase of built-upon area, only the area of net increase shall be subject to this Rule. Where existing development is being replaced with new built-upon area, and there is a net increase of built-upon area, only the area of net increase shall be subject to this Rule;
- (c) Total project area shall exclude the following:
 - (i) areas below the Normal High Water Line (NHWL); and
 - (ii) areas defined as "coastal wetlands" pursuant to 15A NCAC 07H .0205, herein incorporated by reference, including subsequent amendments and editions, and available at no cost at <http://reports.oah.state.nc.us/ncac.asp>, as measured landward from the NHWL; and
- (d) Projects under a common plan of development shall be considered as a single project for purposes of density calculation except that on a case-by-case basis, local governments may allow projects to be considered to have both high and low density areas based on one or more of the following criteria:
 - (i) natural drainage area boundaries;
 - (ii) variations in land use throughout the project; or
 - (iii) construction phasing.

(5) **LOW DENSITY PROJECTS.** In addition to complying with the project density requirements of Item (3) of this Rule, low

density projects shall comply with the following:

- (a) **VEGETATED CONVEYANCES.** Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. In determining whether this criteria has been met, the local government shall take into account site-specific factors such as topography and site layout as well as protection of water quality. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this Sub-Item:
 - (i) Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to the local government that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and
 - (ii) The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations.
- (b) **CURB OUTLET SYSTEMS.** In lieu of vegetated conveyances, low density projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:
 - (i) The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;
 - (ii) The longitudinal slope of the swale or vegetated area shall not exceed five percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;

- (iii) The swale's cross section shall be trapezoidal with a minimum bottom width of two feet;
 - (iv) The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);
 - (v) The minimum length of the swale or vegetated area shall be 100 feet; and
 - (vi) Low density projects may use treatment swales designed in accordance with 15A NCAC 02H .1061 in lieu of the requirements specified in Sub-Items (i) through (v) of this Sub-Item.
- (6) **HIGH DENSITY PROJECTS.** In addition to complying with the project density requirements of Item (3) of this Rule, high density projects shall comply with the following:
 - (a) SCMs shall be designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match" as those terms are defined in Rule .0621 of this Section;
 - (b) For high density projects designed to achieve runoff treatment, the required storm depth shall be one inch. Applicants shall have the option to design projects to achieve runoff volume match in lieu of runoff treatment;
 - (c) Stormwater runoff from off-site areas and "existing development," as that term is defined in Rule .0621 of this Section, shall not be required to be treated in the SCM. Runoff from off-site areas or existing development that is not bypassed shall be included in sizing of on-site SCMs;
 - (d) SCMs shall meet the relevant MDC set forth in 15A NCAC 02H .1050 through .1062; and
 - (e) Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the 10-year storm event as shown by engineering calculations.
- (7) **OPTIONS FOR IMPLEMENTING PROJECT DENSITY.** Local governments shall have the following options when developing or revising their ordinances in place of or in addition to the requirements of Item (3) of this Rule, as appropriate:
 - (a) Local governments may allow only low density development in their water supply watershed areas in accordance with this Section.
 - (b) Local governments may regulate low density single-family detached residential development using the minimum lot size requirements, dwelling unit per acre requirements, built-upon area percentages, or some combination of these.
 - (c) **10/70 OPTION.** Outside of WS-I watersheds and the critical areas of WS-II, WS-III, and WS-IV watersheds, local governments may regulate new development under the "10/70 option" in accordance with the following requirements:
 - (i) A maximum of 10 percent of the land area of a water supply watershed outside of the critical area and within a local government's planning jurisdiction may be developed with new development projects and expansions of existing development of up to 70 percent built-upon area.
 - (ii) In water supply watersheds classified on or before August 3, 1992, the beginning amount of acreage available under this option shall be based on a local government's jurisdiction as delineated on July 1, 1993. In water supply watersheds classified after August 3, 1992, the beginning amount of acreage available under this option shall be based on a local government's jurisdiction as delineated on the date the water supply watershed classification became effective. The acreage within the critical area shall not be counted towards the allowable 10/70 option acreage;
 - (iii) Projects that are covered under the 10/70 option shall comply with the low density requirements set forth in Item (5) of this Rule unless the local government allows high density development, in which case the local

- government may require these projects to comply with the high density requirements set forth in Item (6) of this Rule;
- (iv) The maximum built-upon area allowed on any given new development project shall be 70 percent;
 - (v) A local government having jurisdiction within a designated water supply watershed may transfer, in whole or in part, its right to the 10/70 land area to another local government within the same water supply watershed upon submittal of a joint resolution and approval by the Commission; and
 - (vi) When the water supply watershed is composed of public lands, such as National Forest land, local governments may count the public land acreage within the watershed outside of the critical area in calculating the acreage allowed under this provision.
- (d) New development shall meet the development requirements on a project-by-project basis except local governments may submit ordinances that use density or built-upon area criteria averaged throughout the local government's watershed jurisdiction instead of on a project-by-project basis within the watershed. Prior to approval of the ordinance, the local government shall demonstrate to the Commission that the provisions as averaged meet or exceed the statewide minimum requirements and that a mechanism exists to ensure the planned distribution of development potential throughout the local government's jurisdiction within the watershed.
- (e) Local governments may administer oversight of future development activities in single-family detached residential developments that exceed the applicable low density requirements by tracking dwelling units rather than percentage built-upon area, as long as the SCM is sized to capture and treat runoff from all pervious and built-upon surfaces shown on the development plan and any off-site drainage from pervious and built-upon surfaces, and when an additional safety factor of 15 percent of built-upon area of the project site is figured in.
- (8) **CLUSTER DEVELOPMENT.** Cluster development shall be allowed on a project-by-project basis as follows:
 - (a) Overall density of the project shall meet the requirements of Item (3) of this Rule;
 - (b) Vegetated setbacks shall meet the requirements of Item (11) of this Rule;
 - (c) Built-upon areas are designed and located to minimize stormwater runoff impact to receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas;
 - (d) Areas of concentrated development shall be located in upland areas and away, to the maximum extent practicable, from surface waters and drainageways. In determining whether these criteria have been met, the local government shall take into account site-specific factors such as topography and site layout as well as protection of water quality;
 - (e) The remainder of tract shall remain in a vegetated or natural state;
 - (f) The area in the vegetated or natural state may be conveyed to a property owners association, a local government for preservation as a park or greenway, a conservation organization, or placed in a permanent conservation or farmland preservation easement;
 - (g) A maintenance agreement for the vegetated or natural area shall be filed with the Register of Deeds; and
 - (h) Cluster development that meets the applicable low density requirements shall comply with Item (5) of this Rule.
 - (9) **DENSITY AVERAGING OF NONCONTIGUOUS PARCELS.** Density averaging of two noncontiguous parcels for purposes of complying with this Rule shall be allowed in accordance with G.S. 143-214.5 (d2).
 - (10) **RESPONSIBILITY FOR SCM OPERATION & MAINTENANCE.** Operation and maintenance agreements and plans are required for SCMs in accordance with 15A NCAC 02H .1050. Local governments that allow high

- density development shall assume responsibility for operation and maintenance of the SCMs that they approve.
- (11) **VEGETATED SETBACKS.** Vegetated setbacks shall be required along perennial waterbodies and perennial streams that are indicated on the most recent versions of the United States Geological Survey (USGS) 1:24,000 scale (7.5 minute) quadrangle topographic maps, which are herein incorporated by reference and are available at no cost at <http://www.usgs.gov/pubprod/>, or other maps developed by the Department or a local government and approved by the Commission. Where USGS topographic maps do not distinguish between perennial and intermittent streams, an on-site stream determination may be performed by an individual qualified to perform such stream determinations. A qualified individual is one who has been certified to perform stream determinations by completing and passing the Surface Water Identification Training and Certification (SWITC) Course offered by the North Carolina Division of Water Resources and North Carolina State University. Vegetated setbacks shall also be in accordance with the following:

- (a) **MINIMUM VEGETATION WIDTHS.** The following minimum widths shall apply:
- (i) low density projects – 30 feet;
 - (ii) high density projects – 100 feet;
 - (iii) projects covered under the 10/70 option – 100 feet; and
 - (iv) agricultural activities – 10 feet, or equivalent control as determined by the designated agency as set forth in Rule .0622 of this Section; and
- (b) The width of a vegetated setback shall be measured horizontally from the normal pool elevation of impounded structures, from the top of bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline;
- (c) Vegetated setbacks may be cleared or graded, but shall be replanted and maintained in grass or other vegetation;
- (d) No new built-upon area shall be allowed in the vegetated setback except for the following uses where it is not practical to locate the built-upon area elsewhere:

- (i) publicly-funded linear projects such as roads, greenways, and sidewalks;
- (ii) water dependent structures such as docks; and
- (iii) minimal footprint uses such as poles, signs, utility appurtenances, and security lights.

Built-upon area associated with these uses shall be minimized and the channelization of stormwater runoff shall be avoided; and

- (e) Artificial streambank and shoreline stabilization shall not be subject to the requirements of this Item.
- (f) For minor variances to a vegetated setback requirement, the percent variation shall be calculated using the footprint of built upon area proposed to encroach within the vegetated setback divided by the total area of vegetated setback within the project.
- (g) Non-family subdivisions that are exempt from local subdivision ordinances shall implement the requirements of this Item to the maximum extent practicable considering site-specific factors including technical and cost consideration as well as protection of water quality.

- (12) **VARIANCES.** Variances to this Rule may be considered in accordance with Rule .0623 of this Section.

History Note: Authority G.S. 143-214.1; 143-214.5; 143-215.3(a)(1); Eff. March 1, 2019 (Portions of this Rule were previously codified in 15A NCAC 02B .0104 and 02B .0212 through .0218); Amended Eff. September 1, 2019.

15A NCAC 02C .0101 GENERAL PROVISIONS

(a) **Authorization.** The North Carolina Environmental Management Commission is required pursuant to G.S. 87-87 in the North Carolina Well Construction Act to adopt rules governing the location, construction, repair, and abandonment of wells, the operation of water wells or well systems with a designed capacity of 100,000 gallons per day or greater, and the installation and repair of pumps and pumping equipment.

(b) **Purpose.** Consistent with the duty to safeguard the public welfare, safety, health, and to protect and beneficially develop the groundwater resources of the State, it is declared to be the policy of this State to require that the location, construction, repair, and abandonment of wells, and the installation of pumps and pumping equipment conform to such reasonable standards and requirements as may be necessary to protect the public welfare, safety, health, and ground water resources.

History Note: Authority G.S. 87-87; Eff. February 1, 1976;

*Amended Eff. December 1, 1992; July 1, 1988;
Readopted Eff. September 1, 2019.*

15A NCAC 02C .0102 DEFINITIONS

The terms used in this Subchapter shall be as defined in G.S. 87-85 and as follows:

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| <p>(1) "Abandon" means to discontinue the use of and to seal a well according to the requirements of 15A NCAC 02C .0113 of this Section.</p> <p>(2) "Access port" means an opening in a well casing or well head installed for the purpose of determining the position of the water level in the well or to facilitate disinfection.</p> <p>(3) "Agent" means any person who by agreement with a well owner has authority to act on his or her behalf in executing applications for permits. The agent may be either general agent or a limited agent authorized to do one particular act.</p> <p>(4) "Annular Space" means the space between the casing and the walls of a borehole or outer casing or the space between a liner pipe and well casing.</p> <p>(5) "Artesian flowing well" means a well in which groundwater flows above the land surface without the use of a pump and, under natural conditions, the static water level or hydraulic head elevation is greater than the land surface elevation.</p> <p>(6) "ASTM" means the American Society for Testing and Materials.</p> <p>(7) "Casing" means pipe or tubing constructed of materials and having dimensions and weights as specified in the rules of this Subchapter, that is installed in a borehole during or after completion of the borehole to support the side of the hole and thereby prevent caving, to allow completion of a well, to prevent formation material from entering the well, to prevent the loss of drilling fluids into permeable formations, and to prevent entry of contamination.</p> <p>(8) "Clay" means a substance comprised of natural, inorganic, fine-grained crystalline mineral fragments that, when mixed with water, forms a pasty, moldable mass that preserves its shape when air dried.</p> <p>(9) "Commission" means the North Carolina Environmental Management Commission.</p> <p>(10) "Consolidated rock" means rock that is firm and coherent, solidified or cemented, such as granite, gneiss, limestone, slate or sandstone, that has not been decomposed by weathering.</p> <p>(11) "Contaminate" or "Contamination" means the introduction of foreign materials of such nature, quality, and quantity into the groundwaters as to exceed the groundwater quality standards set forth in 15A NCAC 02L .0200.</p> <p>(12) "Department" is as defined in G.S. 87-85(5a).</p> | <p>(13) "Designed capacity" means that capacity that is equal to the yield that is specified by the well owner or his or her agent prior to construction of the well.</p> <p>(14) "Director" means the Director of the Division of Water Resources or the Director's delegate.</p> <p>(15) "Division" means the Division of Water Resources.</p> <p>(16) "Domestic use" means water used for drinking, bathing or other household purposes, livestock, or gardens.</p> <p>(17) "Formation Material" means naturally occurring material generated during the drilling process that is composed of sands, silts, clays or fragments of rock and that is not in a dissolved state.</p> <p>(18) "GPM" and "GPD" mean gallons per minute and gallons per day, respectively.</p> <p>(19) "Grout" means a material approved in accordance with Rule .0107(e) of this Section for use in sealing the annular space of a well or liner or for sealing a well during abandonment.</p> <p>(20) "Lead Free" means materials containing not more than a weighted average of 0.25 percent lead per Section 1417 of the Safe Drinking Water Act amended January 4, 2014.</p> <p>(21) "Liner pipe" means pipe that is installed inside a completed and cased well for the purpose of preventing the entrance of contamination into the well or for repairing ruptured, corroded or punctured casing or screens.</p> <p>(22) "Monitoring well" means any well constructed for the primary purpose of obtaining information about the physical, chemical, radiological, or biological characteristics of groundwater or other liquids, or for the observation or measurement of groundwater levels. This definition excludes lysimeters, tensiometers, and other devices used to investigate the characteristics of the unsaturated zone but includes piezometers, a type of monitoring well constructed solely for the purpose of determining groundwater levels. This definition includes all monitoring well types, including temporary wells and wells using Geoprobe® or direct-push technology (DPT).</p> <p>(23) "Owner" means any person who holds the fee or other property rights in the well being constructed.</p> <p>(24) "Pitless adapters" or "pitless units" are devices manufactured to the standards specified under 15A NCAC 02C .0107(j)(5) for the purpose of allowing a subsurface lateral connection between a well and plumbing appurtenances.</p> <p>(25) "Public water system" means a water system as defined in 15A NCAC 18C, which is hereby incorporated by reference, including subsequent amendments.</p> |
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- (26) "Recovery well" means any well constructed for the purpose of removing contaminated groundwater or other liquids from the subsurface.
- (27) "Saline" means having a chloride concentration of more than 250 milligrams per liter.
- (28) "Secretary" means the Secretary of the Department of Environmental Quality or the Secretary's delegate.
- (29) "Settleable solids" means the volume of solid particles in a well-mixed one liter sample that will settle out of suspension, in the bottom of an Imhoff Cone, after one hour.
- (30) "Sewer Lateral" means the sewer pipe connecting a structure to a wastewater treatment collection system or a municipal or commercial sewer main line.
- (31) "Site" means the land or water area where any facility, activity or situation is physically located, including adjacent or other land used in connection with the facility, activity or situation.
- (32) "Specific capacity" means the yield of the well expressed in gallons per minute per foot of draw-down of the water level (gpm/ft.-dd).
- (33) "Static water level" means the level at which the water stands in the well when the well is not being pumped and is expressed as the distance from a fixed reference point to the water level in the well.
- (34) "Suspended solids" means the weight of those solid particles in a sample that are retained by a standard glass microfiber filter, with pore openings of one and one-half microns, when dried at a temperature between 103 and 105 degrees Fahrenheit.
- (35) "Temporary well" means a well that is constructed to determine aquifer characteristics and that will be permanently abandoned or converted to a permanent well within 21 days (504 hours) of the completion of drilling of the borehole.
- (36) "Turbidity" means the cloudiness in water due to the presence of suspended particles such as clay or silt that may create laboratory analytical difficulties for determining contamination above 15A NCAC 02L.
- (37) "Vent" means a permanent opening in the well casing or well head, installed for the purpose of allowing changes in the water level in a well due to natural atmospheric changes or to pumping. A vent may also serve as an access port.
- (38) "Water-tight" means put or fit together so tightly that water cannot enter or pass through. For example, water-tight pipe may be filled with water and tested under pressure between three and five pounds per square inch (psi) for several minutes to detect leaks.

- (39) "Well" is as defined in G.S. 87-85(14).
- (40) "Well capacity" means the maximum quantity of water that a well will yield continuously as determined by methods outlined in 15A NCAC 02C .0110.
- (41) "Well head" means the upper terminal of the well including adapters, ports, valves, seals, and other attachments.
- (42) "Well system" means two or more wells connected to the same distribution or collection system or, if not connected to a distribution or collection system, two or more wells serving the same site.
- (43) "Yield" means the volume of water or other fluid per time that can be discharged from a well under a given set of circumstances.

History Note: Authority G.S. 87-85; 87-87; 143-215.3; Eff. February 1, 1976; Amended Eff. September 1, 2009; April 1, 2001; December 1, 1992; July 1, 1988; March 1, 1985; September 1, 1984; Readopted Eff. September 1, 2019.

15A NCAC 02C .0105 PERMITS

(a) No person shall locate or construct any of the following wells until a permit has been issued by the Department:

- (1) any water-well or well system with a designed capacity to pump 100,000 gallons per day (gpd) or more during one calendar year;
- (2) any well added to an existing system if the total designed capacity of such existing well system and added well will equal or exceed 100,000 gpd;
- (3) any temporary or permanent monitoring well or monitoring well system, including wells installed using direct-push technology (DPT) or Geoprobe® technology, designed to penetrate an aquifer to obtain groundwater data on property not owned by the well owner;
- (4) any recovery well;
- (5) any well with a design deviation from the standards specified under the rules of this Subchapter, including wells for which a variance is required.

(b) The Department shall issue permits for wells used for geothermal heating and cooling, aquifer storage and recovery (ASR), or other injection purposes in accordance with 15A NCAC 02C .0200.

(c) The Department shall issue permits for private drinking water wells in accordance with 15A NCAC 02C .0300, including private drinking water wells with a designed capacity greater than 100,000 gallons per day and private drinking water wells for which a variance is required.

(d) An application for any well requiring a permit pursuant to Paragraph (a) of this Rule shall be submitted by the owner or his or her agent. In the event that the permit applicant is not the owner of the property where the well or well system is to be constructed, the permit application shall contain written approval from the property owner and a statement that the applicant assumes total

responsibility for ensuring that the well(s) will be located, constructed, maintained and abandoned in accordance with the requirements of this Subchapter.

(e) The application shall be submitted to the Department on forms furnished by the Department, which shall include the following:

- (1) the owner's name;
- (2) the owner's mailing address and proposed well site address;
- (3) description of the well type and activity requiring a permit;
- (4) site location (map);
- (5) a map of the site, to scale, showing the locations of:
 - (A) all property boundaries, at least one of which is referenced to a minimum of two landmarks such as identified roads, intersections, streams or lakes within 500 feet of proposed well or well system;
 - (B) all existing wells, identified by type of use, within 500 feet of proposed well or well system;
 - (C) the proposed well or well system;
 - (D) any test borings within 500 feet of proposed well or well system; and
 - (E) all sources of known or potential groundwater contamination, such as septic tank systems; pesticide, chemical or fuel storage areas; animal feedlots, as defined by G.S. 143-215.10B(5); landfills or other waste disposal areas within 500 feet of the proposed well.
- (6) the well contractor's name and state certification number, if known; and
- (7) a construction diagram of the proposed well(s) including specifications describing all materials to be used and methods of construction.

(f) For water supply wells or well systems with a designed capacity of 100,000 gpd or greater, the application shall include, in addition to the information required in Paragraph (e) of this Rule:

- (1) the number, yield and location of existing wells in the system;
- (2) the water system's name and reference number if already a public water supply system;
- (3) the designed capacity of the proposed well(s);
- (4) for wells to be screened in multiple zones or aquifers, representative data on the static water level and pH, specific conductance, and concentrations of sodium, potassium, calcium, magnesium, sulfate, chloride, and carbonates from each aquifer or zone from which water is proposed to be withdrawn. The data submitted shall demonstrate that construction of the proposed well will satisfy the requirements of 15A NCAC 02C .0107(h)(2);
- (5) a copy of any water use permit required pursuant to G.S. 143-215.15; and

- (6) any other well construction information or site specific information as requested by the Department to ensure compliance with G.S. 87-84.

(g) For those monitoring wells with a design deviation from the specifications of 15A NCAC 02C .0108 of this Section, in addition to the information required in Paragraph (e) of this Rule, the application shall include:

- (1) a description of the subsurface conditions to evaluate the site. Data from test borings, wells, and pumping tests may be necessary;
- (2) a description of the quantity, character and origin of the contamination;
- (3) justification for the necessity of the design deviation; and
- (4) any other well construction information or site specific information as requested by the Department to ensure compliance with G.S. 87-84.

(h) For those recovery wells with a design deviation from the specifications in 15A NCAC 02C .0108 of this Section, in addition to the information required in Paragraphs (e) and (g) of this Rule, the application shall describe the disposition of any fluids recovered if the disposal of those fluids will have an impact on any existing wells other than those installed for the purpose of measuring the effectiveness of the recovery well(s).

(i) In the event of an emergency, any well listed in Subparagraph (a)(1) through (a)(4) of this Rule may be constructed after verbal approval is provided by the Department. After-the-fact written applications shall be submitted by the person responsible for drilling or owner within 10 days after construction begins. The application shall include construction details of the well(s) and include the name of the person who gave verbal approval and the time and date that approval was given.

(j) The well owner or his or her agent, and the North Carolina certified well contractor shall see that a permit is secured prior to the beginning of construction of any well for which a permit is required under the rules of this Subchapter.

History Note: Authority G.S. 87-87; 143-215.1;

Eff. February 1, 1976;

Amended Eff. September 1, 2009; April 1, 2001; December 1, 1992; March 1, 1985; September 1, 1984; April 20, 1978;

Readopted Eff. September 1, 2019.

15A NCAC 02C .0107 STANDARDS OF CONSTRUCTION: WATER SUPPLY WELLS

(a) Location.

- (1) A water supply well shall not be located in any area where surface water or runoff will accumulate around the well due to depressions, drainage ways, and other landscapes that will concentrate water around the well.
- (2) The horizontal separation between a water supply well and potential sources of groundwater contamination that exist at the time the well is constructed shall be no less than as follows unless otherwise specified in Subparagraph (a)(3) of this Rule:

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| <p>(A) Single-family dwelling with septic tank and drainfield, including the drainfield repair area 50 feet</p> <p>(B) Single-family dwelling with septic tank and drainfield, including the drainfield repair area in saprolite system as described in 15A NCAC 18A .1956 100 feet</p> <p>(C) All other facilities with septic tank and drainfield, including drainfield repair area 100 feet</p> <p>(D) Other subsurface ground absorption waste disposal system 100 feet</p> <p>(E) Industrial or municipal residuals disposal or wastewater-irrigation sites 100 feet</p> <p>(F) Industrial or municipal sewage or liquid-waste collection or sewer main, constructed to water main standards in the American Water Works Association (AWWA) Standards C600 and/or C900, which can be obtained from AWWA at American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235, at a cost of one hundred and four dollars (\$104.00) 50 feet</p> <p>(G) Water-tight sewer lateral line from a residence or other non-public system to a sewer main or other wastewater disposal system 25 feet</p> <p>(H) Other sewage and liquid-waste collection or transfer facility 100 feet</p> <p>(I) Cesspools and privies 100 feet</p> <p>(J) Animal feedlots, as defined by G.S. 143-215.10B(5), or manure or litter piles 100 feet</p> <p>(K) Fertilizer, pesticide, herbicide, or other chemical storage areas 100 feet</p> <p>(L) Non-hazardous waste storage, treatment, or disposal lagoons 100 feet</p> <p>(M) Sanitary landfills, municipal solid waste landfill facilities, incinerators, construction and demolition (C&D) landfills, and other disposal sites except Land Clearing and Inert Debris landfills 500 feet</p> <p>(N) Land Clearing and Inert Debris (LCID) landfills 100 feet</p> <p>(O) Animal barns 100 feet</p> <p>(P) Building perimeters, including any attached structures that need a building permit, such as garages, patios, or decks, regardless of foundation construction type 25 feet</p> | <p>(Q) Surface water bodies that act as sources of groundwater recharge, such as ponds, lakes, and reservoirs 50 feet</p> <p>(R) All other surface water bodies, such as brooks, creeks, streams, rivers, sounds, bays, and tidal estuaries 25 feet</p> <p>(S) Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N:
(i) with secondary containment 50 feet
(ii) without secondary containment 100 feet</p> <p>(T) Above ground or underground storage tanks that contain petroleum fuels used for heating equipment, boilers, or furnaces, with the exception of tanks used solely for storage of propane, natural gas, or liquefied petroleum gas 50 feet</p> <p>(U) All other petroleum or chemical storage tank systems 100 feet</p> <p>(V) Gravesites 50 feet</p> <p>(W) Coal ash landfills or impoundments 200 feet</p> <p>(X) All other potential sources of groundwater contamination 50 feet</p> <p>(3) For a water supply well as defined in G.S. 87-85(13) on a lot serving a single-family dwelling and intended for domestic use, where lot size or other fixed conditions preclude the separation distances specified in Subparagraph (a)(2) of this Rule, the required horizontal separation distances shall be the maximum possible but shall in no case be less than the following:
(A) Industrial or municipal sewage or liquid-waste collection or sewer main, constructed to water main standards as stated in the AWWA Standards C600 and/or C900 25 feet
(B) Animal barns 50 feet</p> <p>(4) In addition to the separation distances specified in Subparagraph (a)(2) of this Rule, a well or well system with a designed capacity of 100,000 gallons per day (GPD) or greater shall be located a sufficient distance from known or anticipated sources of groundwater contamination so as to prevent a violation of groundwater quality standards specified in 15A NCAC 02L .0202 resulting from the movement of contaminants in response to the operation of the well or well system at the proposed rate and schedule of pumping.</p> <p>(5) Wells drilled for public water supply systems regulated by the Public Water Supply Section</p> |
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- of the Division of Water Resources shall meet the requirements of 15A NCAC 18C.
- (b) Source of water.
- (1) The source of water for any water supply well shall not be from a water bearing zone or aquifer that is contaminated;
 - (2) In designated areas described in 15A NCAC 02C .0117 of this Section, the source shall be greater than 43 feet below land surface;
 - (3) In designated areas described in 15A NCAC 02C .0116 of this Section, the source may be less than 20 feet below land surface, but in no case less than 10 feet below land surface;
 - (4) For wells constructed with separation distances less than those specified in Subparagraph (a)(2) of this Rule based on lot size or other fixed conditions as specified in Subparagraph (a)(3) of this Rule, the source shall be greater than 43 feet below land surface except in areas described in Rule .0116 of this Section; and
 - (5) In all other areas the source shall be at least 20 feet below land surface.
- (c) Drilling Fluids. Drilling Fluids shall not contain organic or toxic substances or include water obtained from surface water bodies or water from a non-potable supply and shall be comprised only of:
- (1) The formational material encountered during drilling; or
 - (2) Materials manufactured specifically for the purpose of borehole conditioning or water well construction.
- (d) Casing.
- (1) If steel casing is used:
 - (A) The casing shall be new, seamless, or electric-resistance welded galvanized or black steel pipe. Galvanizing shall be done in accordance with requirements of ASTM A53/A53M-07, which is hereby incorporated by reference, including subsequent amendments and editions and can be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C 700, West Conshohocken, PA, 19428-2959 at a cost of eighty dollars and forty cents (\$80.40);
 - (B) The casing, threads and couplings shall meet or exceed the specifications of ASTM A53/A53M-07 or A589/589M-06, which is hereby incorporated by reference, including subsequent amendments and editions, and can be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C 700, West Conshohocken, PA, 19428-2959 at a cost of eighty dollars and forty cents (\$80.40), and fifty-two dollars (\$52.00), respectively;
 - (C) The wall thickness for a given diameter shall equal or exceed that specified in Table 1;

TABLE 1: MINIMUM WALL THICKNESS FOR STEEL CASING:

Nominal Diameter (inches)	Wall Thickness (inches)
For 3.5 inch or smaller pipe, Schedule 40 is required	
4	0.142
5	0.156
5.5	0.164
6	0.185
8	0.250
10	0.279

12 0.330

14 and larger 0.375

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| <p>(D) Stainless steel casing, threads, and couplings shall conform in specifications to the general requirements in ASTM A530/A530M-04a, which is hereby incorporated by reference, including subsequent amendments and editions and can be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C 700, West Conshohocken, PA, 19428-2959 at a cost of forty-six dollars (\$46.00), and also shall conform to the specific requirements in the ASTM standard that best describes the chemical makeup of the stainless steel casing that is intended for use in the construction of the well;</p> <p>(E) Stainless steel casing shall have a minimum wall thickness that is equivalent to standard Schedule number 10S;</p> <p>(F) Steel casing shall be equipped with a drive shoe if the casing is driven in a consolidated rock formation. The drive shoe shall be made of forged, high carbon, tempered seamless steel and shall have a beveled, hardened cutting edge; and</p> <p>(G) Any materials containing lead shall meet NSF 61 standards, which can be obtained from NSF International at a cost of three hundred and twenty-five dollars (\$325.00), or NSF 372 standards, which can be obtained at a cost of fifty-five dollars (\$55.00). Both standards can be obtained from</p> | <p>NSF International, P.O. Box 130140, 789 N. Dixboro Road, Ann Arbor, MI 48105.</p> <p>(2) If thermoplastic casing is used:</p> <p>(A) The casing shall be new and manufactured in compliance with standards of ASTM F480-14, which is hereby incorporated by reference including subsequent amendments and editions, and can be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C 700, West Conshohocken, PA, 19428-2959 at a cost of sixty-seven dollars (\$67.00);</p> <p>(B) The casing and joints shall meet or exceed all the specifications of ASTM F480-06b, except that the outside diameters shall not be restricted to those listed in ASTM F480-06b, which is hereby incorporated by reference, including subsequent amendments and editions and can be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C 700, West Conshohocken, PA, 19428-2959 at a cost of eighty dollars and forty cents (\$80.40);</p> <p>(C) The depth of installation for a given Standard Dimension Ratio (SDR) or Schedule number thickness shall not exceed that listed in Table 2 unless the Department is provided written documentation from the manufacturer of the casing stating that the casing may safely be used at the depth at which it is to be installed is provided.</p> |
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TABLE 2: Maximum allowable depths (in feet) of Installation of Thermoplastic Water Well Casing. Dimensional standards for PVC pipe are specified in ASTM F 480-14.

Nominal Diameter (inches)	Maximum Depth (in feet) for Schedule 40	Maximum Depth (in feet) for Schedule 80
2	485	1460
3	415	1170
3.5	315	920
4	253	755

5	180	550
6	130	495
8	85	340
10	65	290
12	65	270
14	50	265
16	50	255

	Maximum Depth (in feet) for SDR 21	Maximum Depth (in feet) for SDR 17	Maximum Depth (in feet) for SDR 13.5
All Diameters	185	355	735

- (D) Thermoplastic casing with wall thickness less than that corresponding to SDR 21 or Schedule 40 shall not be used;
- (E) For wells in which the casing will extend into consolidated rock, thermoplastic casing shall be equipped with a coupling or other device approved by the manufacturer of the casing as sufficient to protect the physical integrity of the thermoplastic casing during the processes of seating and grouting the casing and subsequent drilling operations;
- (F) Thermoplastic casing shall not be driven by impact, but may be pushed;
- (G) PVC well casing joints shall meet the requirements of ASTM F 480-14; and
- (H) Screws or similar mechanical fasteners shall not be used for joining PVC well casing.
- (3) In constructing any well, all water-bearing zones that contain contaminated, saline, or other non-potable water shall be cased and grouted so that contamination of overlying and underlying groundwater zones will not occur.
- (4) Every well shall be cased so that the bottom of the casing extends to the following depths:
 - (A) Wells located within the area described in Rule .0117 of this Section shall be cased from land surface to a depth of at least 43 feet.
 - (B) Wells located within the area described in Rule .0116 of this Section shall be cased from land surface to a depth of at least 10 feet.
- (C) Wells constructed with separation distances less than those specified in Subparagraph (a)(2) of this Rule based on lot size or other fixed conditions as specified in Subparagraph (a)(3) of this Rule shall be cased from land surface to a depth of at least 43 feet except in areas described in Rule .0116 of this Section.
- (D) Wells located in any other area shall be cased from land surface to a depth of at least 20 feet.
- (5) The top of the casing shall be terminated at least 12 inches above land surface, regardless of the method of well construction and type of pump to be installed.
- (6) The casing in wells constructed to obtain water from a consolidated rock formation shall meet the requirements of Subparagraphs (d)(1) through (d)(5) of this Rule and shall:
 - (A) prevent any formational material from entering the well in excess of the levels specified in Paragraph (h) of this Rule; and
 - (B) firmly be seated at least five feet into the rock.
- (7) The casing in wells constructed to obtain water from an unconsolidated rock formation (such as gravel, sand, or shells) shall extend at least one foot into the top of the water-bearing formation.
- (8) Upon completion of the well, the well shall be sufficiently free of obstacles including formation material as necessary to allow for the installation and proper operation of pumps and associated equipment.
- (9) Prior to removing equipment from the site, the top of the casing shall be sealed with a water-

tight cap or well seal, as defined in G.S. 87-85(16), to preclude the entrance of contaminants into the well.

(e) Allowable Grouts.

(1) One of the following grouts shall be used wherever grout is required by a rule of this Section. Where a particular type of grout is specified by a rule of this Section, no other type of grout shall be used.

(A) Neat cement grout shall consist of a mixture of not more than six gallons of clear, potable water to one 94 pound bag of Portland cement. Up to five percent, by weight, of untreated Wyoming sodium bentonite may be used to improve flow and reduce shrinkage. The Wyoming sodium bentonite shall be 200 mesh with a yield rating of 90 barrels per ton. If bentonite is used, additional water may be added at a rate not to exceed 0.6 gallons of water for each pound of untreated Wyoming sodium bentonite.

(B) Sand cement grout shall consist of a mixture of not more than two parts sand and one part cement and not more than six gallons of clear, potable water per 94 pound bag of Portland cement.

(C) Concrete grout shall consist of a mixture of not more than two parts gravel or rock cuttings to one part cement and not more than six gallons of clear, potable water per 94 pound bag of Portland cement. One hundred percent of the gravel or rock cuttings must be able to pass through a one-half inch mesh screen.

(D) Bentonite slurry grout shall consist of a mixture of not more than 24 gallons of clear, potable water to one 50 pound bag of commercial granular Wyoming sodium bentonite. Non-organic, non-toxic substances may be added to bentonite slurry grout mixtures to improve particle distribution and pumpability. Bentonite slurry grout may only be used in accordance with the manufacturer's written instructions.

(E) Bentonite chips or pellets shall consist of pre-screened Wyoming sodium bentonite chips or compressed sodium bentonite pellets with largest dimension of at least one-fourth inch but not greater than one-fifth of the width of the annular space into which they are to be placed. Bentonite chips or pellets shall be hydrated in place. Bentonite chips or pellets shall only be

used in accordance with the manufacturer's written instructions.

(F) Specialty grout shall consist of a mixture of non-organic, non-toxic materials with characteristics of expansion, chemical-resistance, rate or heat of hydration, viscosity, density, or temperature-sensitivity applicable to specific grouting requirements. Specialty grouts shall not be used without prior approval by the Director. A request for approval of a specialty grout shall be submitted to the Director and shall include the following information:

(i) a demonstration of non-toxicity, such as American National Standard Institute (ANSI) or National Sanitation Foundation, Inc. (NSF) Standard 60 certification, which is hereby incorporated by reference including subsequent amendments and editions, and can be obtained from NSF International, P.O. Box 130140, 789 North Dixboro Road, Ann Arbor, MI 48105 at a cost of three hundred and twenty-five dollars (\$325.00);

(ii) the results of an independent laboratory that demonstrate the finished product has a permeability of less than 1×10^{-6} centimeters per second and, if the product is used in areas of brackish or saline groundwater, the grout will not degrade over the lifetime of the well;

(iii) a general procedure for mixing and emplacing the grout;

(iv) the types of wells the request would apply to; and

(v) any other additional information the Department needs to ensure compliance with G.S. 87-84 as requested by the Department.

(2) With the exception of bentonite chips or pellets, the liquid and solid components of all grout mixtures shall be blended prior to emplacement below land surface.

(3) No fly ash, other coal combustion byproducts, or other wastes shall be used in any grout.

(f) Grout emplacement.

- (1) Casing shall be grouted to a minimum depth of twenty feet below land surface except that in those areas designated in Rule .0116 of this Section, grout shall extend to a depth of two feet above the screen or, for open end wells, to the bottom of the casing, but in no case less than 10 feet.
- (2) In addition to the grouting required by Subparagraph (f)(1) of this Rule, the casing shall be grouted as necessary to seal off all aquifers or zones that contain contaminated, saline, or other non-potable water so that contamination of overlying and underlying aquifers or zones shall not occur.
- (3) Bentonite slurry grout may be used in that portion of the borehole that is at least three feet below land surface. That portion of the borehole from land surface to at least three feet below land surface shall be filled with a concrete or cement-type grout or bentonite chips or pellets that are hydrated in place.
- (4) Grout shall be placed around the casing by one of the following methods:
 - (A) Pressure. Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the annular space around the casing and overflows at the surface;
 - (B) Pumping. Grout shall be pumped into place through a hose or pipe extended to the bottom of the annular space that can be raised as the grout is applied. The grout hose or pipe shall remain submerged in grout during the entire application; or
 - (C) Other. Grout may be emplaced in the annular space by gravity flow to ensure complete filling of the space. Gravity flow shall not be used if water or any visible obstruction is present in the annular space within the applicable minimum grout depth specified in Subparagraph (f)(1) of this Rule at the time of grouting, with the exception that bentonite chips or pellets may be used if water is present and if designed for that purpose.
- (5) If a rule of this Section requires grouting of the casing to a depth greater than 20 feet below land surface, the pumping or pressure method shall be used to grout that portion of the borehole deeper than 20 feet below land surface, with the exception of bentonite chips and pellets used in accordance with Part (f)(4)(C) of this Rule.
- (6) If an outer casing is installed, it shall be grouted by either the pumping or pressure method.
- (7) Bentonite chips or pellets shall be used in compliance with all manufacturer's instructions including pre-screening the material to eliminate fine-grained particles, installation rates, hydration methods, tamping, and other measures to prevent bridging.
- (8) Bentonite grout shall not be used to seal zones of water with a chloride concentration of 1,500 milligrams per liter or greater. For wells installed on the barrier island from the Virginia state line south to Ocracoke Inlet, chloride concentrations shall be documented and reported as required by 15A NCAC 02C .0114(1)(E).
- (9) The well shall be grouted within seven days after the casing is set. If the well penetrates any water-bearing zone that contains saline water, the well shall be grouted within one day after the casing is set.
- (10) No additives that will accelerate the process of hydration shall be used in grout for thermoplastic well casing.
- (11) If grouting is required by the provisions of this Section, the grout shall extend outward in all directions from the casing wall to a minimum thickness equal to either one-third of the diameter of the outside dimension of the casing or two inches, whichever is greater.
- (12) In no case shall a well be required to have an annular grout seal thickness greater than four inches.
- (13) For wells constructed in locations where flowing artesian conditions are encountered the well shall be grouted to protect the artesian aquifer, prevent erosion of overlying material, and confine the flow within the casing.
- (g) Well Screens.
 - (1) The well, if constructed to obtain water from an unconsolidated rock formation, shall be equipped with a screen that will prevent the entrance of formation material into the well after the well has been developed and completed.
 - (2) The well screen shall be of a design to permit the optimum development of the aquifer with minimum head loss consistent with the intended use of the well. The openings shall be designed to prevent clogging and shall be free of rough edges, irregularities, or other defects that may accelerate or contribute to corrosion or clogging.
 - (3) Multi-screen wells shall not connect aquifers or zones that have differences in water quality or potentiometric surfaces that would result in contamination of any aquifer or zone.
- (h) Gravel and Sand-Packed Wells.
 - (1) In constructing a gravel-or sand-packed well:
 - (A) The packing material shall be composed of quartz, granite, or similar mineral or rock material and shall be of uniform size, water-washed, and

free from clay, silt, and toxic materials.

- (B) The size of the packing material shall be determined from a grain size analysis of the formation material and shall be of a size sufficient to prohibit the entrance of formation material into the well in concentrations above those permitted by Paragraph (i) of this Rule.

- (C) The packing material shall be placed in the annular space around the screens and casing by a fluid circulation method to ensure accurate placement and avoid bridging.

- (D) The packing material shall be disinfected.

- (2) The packing material shall not connect aquifers or zones that have differences in water quality that would result in contamination of any aquifer or zone.

(i) All water supply wells shall be developed by the well contractor. Development shall include removal of formation materials, mud, drilling fluids, and additives, such that the water contains no more than:

- (1) Five milliliters per liter of settleable solids; and
- (2) Ten NTUs of turbidity as suspended solids.

Development does not require efforts to reduce or eliminate the presence of dissolved constituents that are indigenous to the ground water quality in that area.

(j) Well Head Completion.

- (1) Access Port. Every water supply well shall be equipped with a usable access port or air line, except for the following: a multi-pipe deep well with jet pump or adapter mounted on the well casing or well head; and wells with casing two inches or less in diameter if a suction pipe is connected to a suction lift pump. The access port shall be at least one half inch inside the diameter opening so that the position of the water level can be determined. The port shall be installed and maintained in such manner as to prevent entrance of water or foreign material.

- (2) Well Contractor Identification Plate.

- (A) An identification plate, showing the well contractor and certification number and the information specified in Part (j)(2)(E) of this Rule, shall be installed on the well within 72 hours after completion of the drilling.

- (B) The identification plate shall be constructed of a durable weatherproof, rustproof metal or other material approved by the Department as equivalent.

- (C) The identification plate shall be permanently attached to either the aboveground portion of the well casing, surface grout pad, or enclosure

floor around the casing where it is visible and in a manner that does not obscure the information on the identification plate.

- (D) The identification plate shall not be removed.

- (E) The identification plate shall be stamped to show the following:

- (i) the total depth of well;
- (ii) the casing depth (feet) and inside diameter (inches);
- (iii) the screened intervals of screened wells;
- (iv) the packing interval of gravel-packed or sand-packed wells;
- (v) the yield, in gallons per minute (gpm) or specific capacity in gallons per minute per foot of drawdown (gpm/ft. of drawdown);
- (vi) the static water level and the date it was measured;
- (vii) the date the well was completed.

- (3) Pump Installation Information Plate.

- (A) An information plate, showing the well contractor and certification number of the person installing the pump and the information specified in Part (j)(3)(D) of this Rule, shall be permanently attached to either the aboveground portion of the well casing, the surface grout pad, or the enclosure floor, if present, where it is visible and in a manner that does not obscure the information on the identification plate, within 72 hours after completion of the pump installation;

- (B) The information plate shall be constructed of a durable, waterproof, rustproof metal or other material approved by the Department;

- (C) The information plate shall not be removed; and

- (D) The information plate shall be stamped or engraved to show the following:

- (i) the date the pump was installed;
- (ii) the depth of the pump intake; and
- (iii) the horsepower rating of the pump.

- (4) Controlled flow. Every artesian flowing well shall be constructed, equipped, and operated to prevent the uncontrolled discharge of groundwater. Flow discharge control shall be

provided to conserve the groundwater resource and prevent or reduce the loss of artesian hydraulic head. Flow control may consist of valved pipe connections, watertight pump connections, receiving tank, flowing well pitless adapter, packer, or other methods approved by the Department to prevent the loss of artesian hydraulic head and stop the flow of water as referenced in G.S. 87-88(d). Well owners shall be responsible for the operation and maintenance of the valve.

- (5) Pitless adapters or pitless units shall be allowed as a method of well head completion under the following conditions:
 - (A) Design, installation, and performance standards are those specified in PAS-97(04), which is hereby incorporated by reference including subsequent amendments and editions and can be obtained from the Water System Council National Programs Office, 1101 30th Street, N.W., Suite 500, Washington, DC 20007 at no cost;
 - (B) The pitless device is compatible with the well casing;
 - (C) The top of the pitless unit extends at least 12 inches above land surface;
 - (D) The excavation surrounding the casing and pitless device is filled with grout from the top of the casing grout to the land surface; and
 - (E) The pitless device has an access port.
- (6) All openings for piping, wiring, and vents shall enter into the well at least 12 inches above land surface, except where pitless adapters or pitless units are used, and shall be sealed to preclude the entrance of contaminants into the well. The final land surface grade adjacent to the well head shall be such that surface water is diverted away from the well.

History Note: Authority G.S. 87-87; 87-88; S.L. 2018-65; Eff. February 1, 1976; Amended Eff. May 14, 2001; December 1, 1992; March 1, 1985; September 1, 1984; April 20, 1978; Temporary Amendment Eff. August 3, 2001; Amended Eff. September 1, 2009; August 1, 2002; Readopted Eff. Pending Legislative Review.

15A NCAC 02C .0108 STANDARDS OF CONSTRUCTION: WELLS OTHER THAN WATER SUPPLY

- (a) No well shall be located, constructed, operated, or repaired in any manner that may adversely impact the quality of groundwater.
- (b) Injection wells shall conform to the standards set forth in Section .0200 of this Subchapter.
- (c) Monitoring wells and recovery wells shall be located, designed, constructed, operated, and abandoned with materials and by methods that are compatible with the chemical and

physical properties of the contaminants involved, specific site conditions, and specific subsurface conditions.

(d) Monitoring well and recovery well boreholes shall not penetrate to a depth greater than the depth to be monitored or the depth from which contaminants are to be recovered. Any portion of the borehole that extends to a depth greater than the depth to be monitored or the depth from which contaminants are to be recovered shall be grouted completely to prevent vertical migration of contaminants.

(e) The well shall not hydraulically connect:

- (1) separate aquifers; or
- (2) those portions of a single aquifer where contamination occurs in separate and definable layers within the aquifer.

(f) The well construction materials used shall be structurally stable, corrosion resistant, and non-reactive based upon the depth of the well and any contaminants to be monitored or recovered.

(g) The well shall be constructed in such a manner that water or contaminants from the land surface cannot migrate along the borehole annulus into any packing material or well screen area.

(h) In non-water supply wells, packing material placed around the screen shall extend one foot or greater above the top of the screen and a one foot or greater thick seal, comprised of chip or pellet bentonite or other material approved by the Department as equivalent, shall be emplaced directly above and in contact with the packing material. If shallow groundwater is observed within five feet or less of land surface during well construction, the packing material and seal shall comply with Paragraph (j) of this Rule.

(i) In non-water supply wells, grout shall be placed in the annular space between the outermost casing and the borehole wall from the land surface to the top of the bentonite seal above any well screen or to the bottom of the casing for open end wells. The grout shall comply with Paragraph (e) of Rule .0107 of this Section.

(j) For non-water supply wells in which the stabilized water table is visible within five feet of land surface during well installation or field investigation activities, well construction shall meet each of the following requirements:

- (1) Packing material placed in the annular space around the well screen shall extend six inches or greater above the top of the screen;
- (2) A six-inch or greater thick seal comprised of chip or pellet bentonite shall be placed in the annular space above and in direct contact with the packing material;
- (3) A one-foot or greater seal of concrete or cement grout shall be installed in the annular space from land surface to the top of the bentonite seal (upper one foot of well horizon); and
- (4) Shallow wells of this class shall be equipped with a two-foot or greater concrete pad around the well, flush with the land surface to prevent surface water infiltration.

If a well is installed under this Paragraph, the existence of a shallow water table shall be verified by a NC certified well contractor, licensed professional engineer, geologist, or soil scientist and noted on all documents or reporting forms submitted.

(k) All wells shall be grouted within seven days after the casing is set. If the well penetrates any water-bearing zone that contains

contaminated or saline water, the well shall be grouted within one day after the casing is set.

(l) All non-water supply wells, including temporary wells, shall be secured with a locking well cap to ensure against unauthorized access and use.

(m) All non-water supply wells shall be equipped with a steel outer well casing or flush-mount cover, set in concrete, and other measures to protect the well from damage by normal site activities.

(n) Any well that would flow under natural artesian conditions shall be valved so that the flow can be regulated.

(o) In non-water supply wells, the well casing shall be terminated no less than 12 inches above land surface unless all of the following conditions are met:

- (1) site-specific conditions directly related to business activities, such as vehicle traffic, would endanger the physical integrity of the well; and
- (2) the well head is completed in such a manner so as to preclude surficial contaminants from entering the well.

(p) Each non-water supply well shall have permanently affixed an identification plate. The identification plate shall be constructed of a durable, waterproof, or rustproof material and shall contain the following information:

- (1) well contractor's name and certification number;
- (2) the date the well was completed;
- (3) the total depth of the well;
- (4) a warning that the well is not for water supply and that the groundwater may contain hazardous materials;
- (5) the depth to the top and bottom of each screen; and
- (6) the well identification number or name assigned by the well owner.

(q) Each non-water supply well shall be developed such that the level of turbidity or settleable solids does not preclude accurate chemical analyses of any fluid samples collected or adversely affect the operation of any pumps or pumping equipment.

(r) Wells constructed for the purpose of monitoring or testing for the presence of liquids associated with tanks regulated under 15A NCAC 02N shall be constructed in accordance with 15A NCAC 02N .0504.

(s) Wells constructed for the purpose of monitoring for the presence of vapors associated with tanks regulated under 15A NCAC 02N shall:

- (1) be constructed in such a manner as to prevent the entrance of surficial contaminants or water into or alongside the well casing; and
- (2) be provided with a locking well cap to ensure against unauthorized access and use.

(t) Temporary wells and all other non-water supply wells shall be constructed in such a manner as to preclude the vertical migration of contaminants within and along the borehole channel.

(u) Geotechnical borings advanced for building activities, such as foundation testing and road bed strength evaluations shall not be considered wells as defined in G.S. 87-85(14) if they are immediately abandoned after use pursuant to Rule .0113(d)(1) of

this Section. These borings shall not require submittal of a well construction or abandonment record pursuant to Rule .0114 of this Section.

(v) Soil borings advanced for such activities as collecting soil samples for contamination assessment or characterization soil profiles shall not be considered wells as defined in G.S. 87-85(14) if they are not intended to penetrate the water table and are abandoned after samples are collected pursuant to Rule .0113(d)(1) of this Section. These borings shall not require submittal of a well construction or well abandonment records pursuant to Rule .0114 of this Section.

History Note: Authority G.S. 87-87; 87-88;

Eff. February 1, 1976;

Amended Eff. September 1, 2009, April 1, 2001; December 1, 1992; September 1, 1984; April 20, 1978;

Readopted Eff. September 1, 2019.

15A NCAC 02C .0109 PUMPS AND PUMPING EQUIPMENT

(a) The pumping capacity of the pump shall be consistent with the intended use and yield characteristics of the well.

(b) The pump and related equipment for the well shall be located to permit easy access and removal for repair and maintenance.

(c) The base plate of a pump placed directly over the well shall be designed to form a watertight seal with the well casing or pump foundation.

(d) In installations where the pump is not located directly over the well, the annular space between the casing and pump intake or discharge piping shall be closed with a watertight seal.

(e) The well head shall be equipped with a screened vent to allow for the pressure changes within the well unless a suction lift pump or single-pipe jet pump is used or artesian flowing well conditions are encountered.

(f) The person installing the pump in any water supply well shall install a threadless sampling tap at the wellhead for obtaining water samples except:

- (1) In the case of suction pump or offset jet pump installations the threadless sampling tap shall be installed on the return (pressure) side of the pump piping; and
- (2) In the case of pitless adapter installations, the threadless sampling tap shall be located upstream of the water storage tank.

The threadless sampling tap shall be turned downward, located a minimum of 12 inches above land surface, floor, or well pad, and positioned such that a water sample can be obtained without interference from any part of the wellhead. If the wellhead is also equipped with a threaded hose bibb in addition to the threadless sampling tap, the hose bibb shall be fitted with a backflow preventer or vacuum breaker.

(g) A priming tee shall be installed at the well head in conjunction with offset jet pump installations.

(h) Joints of any suction line installed underground between the well and pump shall be tight under system pressure.

(i) The drop piping and electrical wiring used in connection with the pump shall meet all applicable underwriters specifications.

(j) Only potable water shall be used for priming the pump.

(k) Any materials containing lead shall meet NSF 61 standards.

History Note: Authority G.S. 87-87; 87-88;
Eff. February 1, 1976;
Amended Eff. September 1, 2009, December 1, 1992; April 20, 1978;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0110 WELL TESTS FOR YIELD

(a) Every domestic well shall be tested for capacity by one of the following methods:

- (1) Pump Method
 - (A) select a permanent measuring point, such as the top of the casing;
 - (B) measure and record the static water level below or above the measuring point prior to starting the pump;
 - (C) measure and record the discharge rate at intervals of 10 minutes or less;
 - (D) measure and record water levels using a steel or electric tape at intervals of 10 minutes or less;
 - (E) continue the test for a period of at least one hour; and
 - (F) make measurements within an accuracy of plus or minus one inch.
- (2) Bailer Method
 - (A) select a permanent measuring point, such as the top of the casing;
 - (B) measure and record the static water level below or above the measuring point prior to starting the bailing procedure;
 - (C) bail the water out of the well for a period of one hour or longer;
 - (D) determine and record the bailing rate in gallons per minute at the end of the bailing period; and
 - (E) measure and record the water level after stopping bailing process.
- (3) Air Rotary Drill Method
 - (A) measure and record the amount of water being injected into the well during drilling operations;
 - (B) measure and record the discharge rate in gallons per minute at intervals of one hour or less during drilling operations;
 - (C) after completion of the drilling, continue to blow the water out of the well for 30 minutes or longer and measure and record the discharge rate in gallons per minute at intervals of 10 minutes or less during the period; and
 - (D) measure and record the water level after discharge ceases.
- (4) Air Lift Method. Measurements shall be made through a pipe placed in the well. The pipe shall have an inside diameter of at least five-tenths of an inch or greater and shall extend from top of

the well head to a point inside the well that is below the bottom of the air line.

- (A) Measure and record the static water level prior to starting the air compressor;
 - (B) Measure and record the discharge rate at intervals of 10 minutes or less;
 - (C) Measure and record the pumping level using a steel or electric tape at intervals of 10 minutes or less; and
 - (D) Continue the test for a period of one hour or longer.
- (b) Public, Industrial, and Irrigation Wells. Every industrial or irrigation well and, if required by rule adopted by the Commission for Public Health, every well serving a public water supply system upon completion shall be tested for capacity by the following or equivalent method:
- (1) The water level in the well to be pumped and in all observation wells shall be measured and recorded prior to starting the test.
 - (2) The well shall be tested by a pump of sufficient size and lift capacity to test the yield of the well, consistent with the well diameter and purpose.
 - (3) The pump shall be equipped with throttling devices to reduce the discharge rate to approximately 25 percent of the maximum capacity of the pump.
 - (4) The test shall be conducted for a period of 24 hours or longer without interruption and, except for wells constructed in Coastal Plain aquifers, shall be continued for a period of four hours or longer after the pumping water level stabilizes.
 - (5) The pump discharge shall be set at a constant rate or rates that can be maintained throughout the testing period. If the well is tested at two or more pumping rates (a step-drawdown test), pumping at each pumping rate shall continue to the point that the pumping water level declines no more than 0.1 feet per hour for a period of four hours or more for each pumping rate, except for wells constructed to Coastal Plain aquifers. In wells constructed in Coastal Plain aquifers, pumping at each pumping rate shall continue for four hours or longer.
 - (6) The pump discharge rate shall be measured by an orifice meter, flowmeter, weir, or equivalent metering device. The metering device used shall have a calibration accuracy within plus or minus five percent of a known standard.
 - (7) The discharge rate of the pump and time shall be measured and recorded at intervals of 10 minutes or less during the first two hours of the pumping period for each pumping rate. If the pumping rate is constant after the first two hours of pumping, discharge measurements and recording may be made at longer time intervals not to exceed one hour.
 - (8) The water level in each well and time shall be measured and recorded at intervals of five

minutes or less during the first hour of pumping and at intervals of 10 minutes or less during the second hour of pumping. After the second hour of pumping, the water level in each well shall be measured at such intervals that the lowering of the pumping water level does not exceed three inches between measurements.

- (9) A reference point for water level measurements shall be selected and recorded for the pumping well and each observation well to be measured during the test. All water level measurements shall be made from the selected reference points, which shall be permanently marked.
- (10) All water level measurements shall be made with a steel or electric tape or equivalent measuring device.
- (11) All water level measurements shall be made within an accuracy of plus or minus one inch or to 0.1 foot.
- (12) After the completion of the pumping period, measurements of the water level recovery rate in the pumped well shall be made in the same manner as the drawdown for a period of two hours or greater.

History Note: Authority G.S. 87-87; 87-88;
Eff. February 1, 1976;
Amended Eff. September 1, 2009, April 1, 2001; December 1, 1992; September 1, 1984; April 20, 1978;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0111 DISINFECTION OF WATER SUPPLY WELLS

- (a) Any person constructing, repairing, testing, or performing maintenance or installing a pump in a water supply well shall disinfect the well upon completion of construction, repairs, testing, maintenance, or pump installation.
- (b) Any person disinfecting a well shall perform disinfection in accordance with the following procedures:

- (1) Chlorination.
 - (A) Hypochlorite shall be placed in the well in sufficient quantities to produce a chlorine residual of at least 100 parts per million (ppm) in the well. Stabilized chlorine tablets or hypochlorite products containing fungicides, algaecides, or other disinfectants shall not be used. Chlorine test strips or other quantitative test methods shall be used to confirm the concentration of the chlorine residual.
 - (B) The hypochlorite shall be placed in the well by one of the following or equivalent methods:
 - (i) Granular hypochlorite may be dropped in the top of the well and allowed to settle to the bottom; or

- (ii) Hypochlorite solutions shall be placed in the bottom of the well by using a bailer or by pouring the solution through the drill rod, hose, or pipe placed in the bottom of the well. The solution shall be flushed out of the drill rod, hose, or pipe by using water or air.

- (C) The water in the well shall be agitated or circulated to ensure thorough dispersion of the chlorine.
- (D) The well casing, pump column, and any other equipment above the water level in the well shall be rinsed with the chlorine solution as a part of the disinfecting process.
- (E) The chlorine solution shall stand in the well for a period of 24 hours or more.
- (F) The well shall be pumped until there is no detectable total chlorine residual in water pumped from the well before the well is placed in use.
- (2) Other alternate materials and methods of disinfection, at least as effective as those set forth in Subparagraph (b)(1) of this Rule, may be used upon prior approval by the Department. A written request for approval of alternate disinfection methods or materials shall be submitted to the Director and will be approved or denied on a case-by-case basis following a review of the information submitted in this Subparagraph. The written request shall include the following information:
 - (A) a demonstration that the method of disinfection will be at least as effective as chlorination as described under in Subparagraph (b)(1) of this Rule;
 - (B) a demonstration of non-toxicity, such as ANSI or NSF Standard certification or EPA studies;
 - (C) the general procedures for the disinfection and emplacement, including the amount of product to be used per unit volume of the well;
 - (D) a demonstration that, after disinfection is completed, the water within the well will meet 15A NCAC 02L groundwater standards; and
 - (E) any other information requested by the Department to ensure compliance with G.S. 87-84.

History Note: Authority G.S. 87-87; 87-88;
Eff. February 1, 1976;
Amended Eff. September 1, 2009; April 1, 2001; December 1, 1992; July 1, 1988; September 1, 1984;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0112 WELL MAINTENANCE:

REPAIR: GROUNDWATER RESOURCES

(a) A well that is not maintained by the owner to conserve and protect the groundwater resources or that constitutes a source or channel of contamination to the water supply or any aquifer shall be permanently abandoned in accordance with Rule .0113(b) of this Section.

(b) Wells that are used for dewatering shall be permanently abandoned in accordance with Rule .0113(b) of this Section within 30 days of completion of the dewatering activity.

(c) All materials used in the maintenance, replacement, or repair of any well shall be in accordance with Rules .0107 and .0108 of this Section.

(d) Broken, punctured, or otherwise defective or unserviceable casing, screens, fixtures, seals, or any part of the well head shall be repaired or replaced, or the well shall be permanently abandoned in accordance with Rule .0113(b) of this Section.

(e) NSF International approved PVC pipe rated at 160 PSI may be used for liner pipe. The annular space around the liner casing shall be five-eighths inches or greater and shall be completely filled with neat-cement grout or sand cement grout. The well liner shall be completely grouted within 10 working days after collection of water samples or completion of other testing to confirm proper placement of the liner or within 10 working days after the liner has been installed if no sampling or testing is performed.

(f) No well shall be repaired or altered such that the well head is completed less than 12 inches above land surface. Any grout excavated or removed as a result of the well repair shall be replaced in accordance with Rule .0107(f) of this Section.

(g) Well rehabilitation by noncontinuous chemical treatment shall be conducted using methods and materials approved by the Department based on a demonstration that the materials and methods used will not create a violation of groundwater standards in 15A NCAC 02L, including rendering the groundwater unsuitable for its intended best use after completion of the rehabilitation. A written request for approval of a noncontinuous chemical treatment shall be submitted to the Director and shall include the following information:

- (1) a demonstration of non-toxicity, such as ANSI or NSF Standard certification or EPA studies;
- (2) the general procedures for the rehabilitation, including the amount of product to be used per unit volume of the well;
- (3) a demonstration that, after rehabilitation is completed, the water within the well will meet 15A NCAC 02L groundwater standards;
- (4) a description of the dosing frequency; and
- (5) after submittal of request, any other information necessary for the Department to ensure compliance with G.S. 87-84.

History Note: Authority G.S. 87-87; 87-88;

Eff. February 1, 1976;

Amended Eff. September 1, 2009, August 1, 2002; April 1, 2001; December 1, 1992; September 1, 1984;

Readopted Eff. September 1, 2019.

15A NCAC 02C .0113 ABANDONMENT OF WELLS

(a) A well that is temporarily removed from service shall be temporarily abandoned in accordance with the following procedures:

- (1) The well shall be sealed with a water-tight cap or well seal, as defined in G.S. 87-85(16), compatible with the casing and installed so that it cannot be removed without the use of hand tools or power tools.
- (2) The well shall be maintained whereby it is not a source or channel of contamination during temporary abandonment.

(b) Permanent abandonment of water supply wells other than bored or hand dug wells shall be performed in accordance with the following procedures:

- (1) All casing and screen materials may be removed prior to initiation of abandonment procedures if such removal will not cause or contribute to contamination of the groundwaters.
- (2) The entire depth of the well shall be sounded before it is sealed to ensure freedom from obstructions that may interfere with sealing operations.
- (3) Except in the case of temporary wells and monitoring wells, the well shall be disinfected in accordance with Rule .0111(b)(1)(A) through .0111(b)(1)(C) of this Section.
- (4) In the case of gravel-packed wells in which the casing and screens have not been removed, neat-cement or bentonite slurry grout shall be injected into the well, completely filling it from the bottom of the casing to the top.
- (5) Wells constructed in unconsolidated formations shall be completely filled with grout by introducing it through a pipe extending to the bottom of the well that can be raised as the well is filled.
- (6) Wells constructed in consolidated rock formations or that penetrate zones of consolidated rock may be filled with grout, sand, gravel or drill cuttings within the zones of consolidated rock. The top of any sand, gravel or cutting fill shall terminate at least 10 feet below the top of the consolidated rock or five feet below the bottom of casing. Grout shall be placed beginning 10 feet below the top of the consolidated rock or five feet below the bottom of casing in a manner to ensure complete filling of the casing, and extend up to the land surface. For any well in which the depth of casing or the depth of the bedrock is not known or cannot be confirmed, the entire length of the well shall be filled with grout up to the land surface.

(c) For bored wells or hand dug water supply wells constructed into unconsolidated material:

- (1) The well shall be disinfected in accordance with Rule .0111(b)(1)(A) through .0111(b)(1)(C) of this Section.

- (2) All plumbing or piping in the well and any other obstructions inside the well shall be removed from the well.
 - (3) The uppermost three feet of well casing shall be removed from the well.
 - (4) All soil or other subsurface material present down to the top of the remaining well casing shall be removed, including the material extending 12 inches or greater outside of the well casing;
 - (5) The well shall be filled to the top of the remaining casing with grout, dry clay, or material excavated during construction of the well. If dry clay or material excavated during construction of the well is used, it shall be emplaced in lifts no more than five feet thick, each compacted in place prior to emplacement of the next lift.
 - (6) A six-inch thick concrete grout plug shall be placed on top of the remaining casing such that it covers the entire excavated area above the top of the casing, including the area extending 12 inches or greater outside the well casing.
 - (7) The remainder of the well above the concrete plug shall be filled with grout or soil.
- (d) All wells other than water supply wells, including temporary wells, monitoring wells, or test borings:
- (1) less than 20 feet in depth that do not penetrate the water table shall be abandoned by filling the entire well up to land surface with grout, dry clay, or material excavated during drilling of the well and then compacted in place;
 - (2) greater than 20 feet in depth or that penetrate the water table shall be abandoned by completely filling with a bentonite or cement - type grout; and
 - (3) constructed in consolidated rock formations or that penetrate zones of consolidated rock may be filled with grout, sand, gravel, or drill cuttings within the zones of consolidated rock. The top of any sand, gravel or cutting fill shall terminate 10 feet or greater below the top of the consolidated rock or five feet below the bottom of the casing. Grout shall be placed beginning 10 feet below the top of the consolidated rock or five feet below the bottom of the casing in a manner to ensure complete filling of the casing and shall extend up to the land surface. For any well in which the depth of the casing or the depth of the bedrock is not known or cannot be confirmed, the entire length of the well shall be filled with grout up to the land surface.
- (e) Any well that acts as a source or channel of contamination shall be repaired or permanently abandoned within 30 days of receipt of notice from the Department.
- (f) All wells shall be permanently abandoned in which the casing has not been installed or from which the casing has been removed, prior to removing drilling equipment from the site.

- (g) The well owner is responsible for permanent abandonment of a well except that:
- (1) the well contractor is responsible for well abandonment if abandonment is required because the well contractor improperly locates, constructs, repairs or completes the well;
 - (2) the person who installs, repairs or removes the well pump is responsible for well abandonment if that abandonment is required because of improper well pump installation, repair or removal; or
 - (3) the well contractor (or individual) who conducts a test boring is responsible for its abandonment at the time the test boring is completed.

History Note: Authority G.S. 87-87; 87-88;

Eff. February 1, 1976;

Amended Eff. September 1, 2009; April 1, 2001; December 1, 1992; September 1, 1984; April 20, 1978;

Readopted Eff. September 1, 2019.

15A NCAC 02C .0114 DATA AND RECORDS REQUIRED

Reports.

- (1) A person completing or abandoning a well, including wells installed using direct push technology (DPT)(e.g., Geoprobe®), shall submit to the Division a record of the construction, on form GW-1, or abandonment, on form GW-30. For water supply wells, a copy of each completion or abandonment record shall also be submitted to the health department responsible for the county in which the well is located. The record shall be on forms provided by the Division and shall include:
 - (A) a certification that construction or abandonment was completed as required by this Section;
 - (B) the owner's name and address;
 - (C) the latitude and longitude of the well with a position accuracy of 100 feet or less;
 - (D) the diameter, depth, and yield of the well;
 - (E) the chloride concentration for wells installed in the area delineated in Rule .0107(f)(8) of this Section; and
 - (F) after submittal of form, any other information necessary as requested by the Department to ensure compliance with G.S. 87-84.
- (2) The certified record of completion or abandonment shall be submitted within a period of thirty days after completion or abandonment. For multiple DPT/Geoprobe® wells having the same construction, only one GW-1 or GW-30 is required to be submitted if the total number of wells is indicated on the form.

- (3) Furnishing of records to any person or agency other than the Division shall not constitute compliance with the reporting requirement and shall not relieve the well contractor of his or her reporting requirement to the Division.

*History Note: Authority G.S. 87-87; 87-88;
Eff. February 1, 1976;
Amended Eff. September 1, 2009; April 1, 2001; December 1, 1992; September 1, 1984; April 20, 1978;
Readopted Eff. September 1, 2019.*

15A NCAC 02C .0116 DESIGNATED AREAS: WATER SUPPLY WELLS CASED TO LESS THAN 20 FEET

(a) If the best or only source of potable water exists between 10 and 20 feet below the surface of the land, water supply wells may be cased to a depth less than 20 feet in the following areas:

- (1) in Currituck County in an area between the sound and a line beginning at the end of SR 1130 near Currituck Sound, thence north to the end of SR 1133, thence north to the end of NC 136 at the intersection with the sound;
- (2) on the barrier island from the Virginia state line, south to Ocracoke Inlet;
- (3) all areas lying between the Intracoastal Waterway and the ocean from New River Inlet south to New Topsail Inlet; and
- (4) all areas lying between the Intracoastal Waterway and the ocean from the Cape Fear River south to the South Carolina line.

(b) Pursuant to Rule .0118 of this Section, water supply wells may be cased to a depth less than 20 feet, if:

- (1) the only or best source of drinking water in the area exists between a depth of 10 and 20 feet below the surface of the land; and
- (2) using this source of water in the area is in the best interest of the public.

(c) In all other areas, the source of water shall be at least 20 feet below land surface. However, when adequate quantities of potable water cannot be obtained below a depth of 20 feet, the source of water may be obtained from unconsolidated rock formations at depths less than 20 feet provided that:

- (1) adequate quantities of water of acceptable quality for the intended use is not available to a minimum depth of 50 feet can be shown to exist;
- (2) the proposed source of water is the maximum feasible depth above 20 feet, but in no case less than 10 feet; and
- (3) the regional office of the Department is notified prior to the construction of a well obtaining water from a depth between 10 and 20 feet below land surface.

*History Note: Authority G.S. 87-87;
Eff. April 20, 1978;
Amended Eff. September 1, 2009; December 1, 1992; July 1, 1988; September 1, 1984;
Readopted Eff. September 1, 2019.*

15A NCAC 02C .0117 DESIGNATED AREAS: WATER SUPPLY WELLS CASED TO MINIMUM DEPTH OF 43 FEET

Water supply wells constructed in the following areas or within 400 feet of the following areas shall be cased to a minimum depth of 43 feet and grouted to a depth of 20 feet:

- (1) Anson County generally west of a line beginning at the intersection of the runs of the Pee Dee River and Buffalo Creek, thence generally northeast to SR 1627, thence generally south along SR 1627 to the intersection with SR 1632, thence generally west along SR 1632 to the intersection with US 52, thence generally south along US 52 to the intersection with SR 1418, thence generally southwest along SR 1418 to the intersection of NC 218, thence south along NC 218 to the intersection with US 74, thence generally west along US 74 to the intersection of SR 1251, thence generally southwest along SR 1251 to the intersection with SR 1240, thence generally southeast along SR 1240 to the intersection with SR 1252, thence generally south along SR 1252 to the intersection with SR 1003, thence generally west along SR 1003 to the Union County line;
- (2) Cabarrus County generally east of a line beginning at the intersection of SR 1113 and the Union County line, thence generally northeast along SR 1113 to the intersection with SR 1114, thence generally east along SR 1114 to the Stanly County line, thence generally northeast along the county line to the intersection with SR 1100, thence generally northeast along SR 1100 to the intersection of with SR 2622, thence generally southeast along SR 2622 to the intersection with SR 2617, thence generally northeast along SR 2617 to the intersection with SR 2611, thence generally north along SR 2611 to the intersection with NC 73, thence generally east along NC 73 to the intersection with SR 2453, thence generally northeast along SR 2453 to the intersection with SR 2444, thence generally northeast along SR 2444 to the Rowan County line;
- (3) Davidson County generally east of a line starting at the intersection of the runs of Abbotts Creek and the Yadkin River in High Rock Lake, thence generally north along Abbotts Creek to NC 8 bridge, thence generally north along NC 8 to the intersection with Interstate 85, thence generally northeast along Interstate 85 to the intersection with US 64, thence generally southeast along US 64 to the Randolph County line;
- (4) Montgomery County generally west of a line beginning at the intersection of SR 1134 with the Randolph County line, thence generally south along SR 1134 to the intersection with SR

- 1303, thence generally south along SR 1303 to the intersection with NC 109, thence generally southeast along NC 109 to the intersection with SR 1150, thence generally south along SR 1150 to the intersection with NC 73, thence generally southeast along NC 73 to the intersection with SR 1227, thence generally east along SR 1227 to the intersection with SR 1130, thence generally northeast along SR 1130 to the intersection with SR 1132, thence generally southeast along SR 1132 to the intersection with SR 1174, thence generally east along SR 1174 to the intersection with NC 109, thence generally north along NC 109 to the intersection with SR 1546, generally southeast along SR 1546 to the intersection of SR 1543, thence generally south along SR 1543 to the intersection with NC 731, thence generally west along NC 731 to the intersection with SR 1118, thence generally southwest along SR 1118 to the intersection with SR 1116, thence generally west along SR 1116 to the intersection with NC 109, thence generally south along NC 109 to the intersection with the Richmond County line;
- (5) Randolph County generally west of a line beginning at the intersection of US 64 with the Davidson County line, thence generally east along US 64 to the intersection with NC 49, thence generally southwest along NC 49 to the intersection with SR 1107, thence generally south along SR 1107 to the intersection with SR 1105, thence southeast along SR 1105 to the intersection with the Montgomery County line;
- (6) Rowan County generally east of a line beginning at the intersection of SR 2352 with the Cabarrus County line, thence generally northeast along SR 2352 to the intersection with SR 2353, thence generally north along SR 2353 to the intersection with SR 2259, thence generally northeast along SR 2259 to the intersection with SR 2142, thence north along SR 2142 to the intersection with SR 2162, thence generally northeast along SR 2162 to the intersection with the run of the Yadkin River in High Rock Lake;
- (7) Union County generally east of a line beginning at the intersection of SR 1117 with the South Carolina-North Carolina State line, thence generally north along SR 1117 to the intersection with SR 1111, thence generally northwest along SR 1111 to the intersection with NC 75, thence generally northwest along NC 75 to the intersection with NC 16, thence generally north along NC 16 to the intersection with SR 1008, thence generally northeast along SR 1008 to the intersection with SR 1520, thence generally northeast along SR 1520 to the intersection with NC 218, thence generally east along NC 218 to the intersection with US 601, thence generally north along US 601 to the intersection with SR 1600, thence generally northeast along SR 1600 to the intersection with the Cabarrus County line; and
- (8) Stanly County -- all.
- History Note: Authority G.S. 87-87; S.L. 2018-65 Eff. April 20, 1978; Amended Eff. September 1, 2009, April 1, 2001; Readopted Eff. Pending Legislative Review.*
- 15A NCAC 02C .0118 VARIANCE**
- (a) The Secretary may grant a variance from any construction standard under the rules of this Section, as set forth in Rule .0119 of this Section. Any variance request shall be submitted using the official form approved the Division as set forth in Paragraph (b) of this Rule and may be granted by the Secretary to the person responsible for the construction of the well for which the variance is sought, if:
- (1) the use of the well will not endanger human health and welfare or the groundwaters; and
 - (2) construction in accordance with the standards is not technically feasible in such a manner as to afford a reasonable water supply at a reasonable cost.
- (b) The variance request application form shall be submitted to the Division and shall include the following:
- (1) the owner's name, mailing address, and Email address;
 - (2) the owner's telephone number(s);
 - (3) the physical location of the well site;
 - (4) the well contractor's name and State certification number;
 - (5) the well contractor's mailing address and Email address;
 - (6) the well contractor's telephone number(s);
 - (7) a map of the site, to scale, showing the locations of all existing and proposed well(s) in relation to:
 - (A) road names and property boundaries;
 - (B) buildings and structures;
 - (C) other wells;
 - (D) surface water bodies; and
 - (E) known sources of contamination;
 - (8) the reason for the variance request;
 - (9) a construction diagram of the proposed well(s) including specifications describing all atypical materials or methods to be used and means for assuring the integrity and quality of the finished well(s);
 - (10) a copy of the local well application and permit, if applicable;
 - (11) the signatures of the well contractor and well owner(s); and
 - (12) after submittal of form, any other information necessary as requested by the Department to ensure compliance with G.S. 87-84.
- (c) The Secretary may impose such conditions on a variance or the use of a well for which a variance is granted and is necessary

to ensure compliance with G.S. 87-84. The facts supporting any variance under this Rule shall be in writing and made part of the variance.

(d) The Secretary shall respond in writing to a request for a variance within 30 days after the receipt of the variance request.

(e) A variance applicant who is dissatisfied with the decision of the Secretary may commence a contested case by filing a petition under G.S. 150B-23 within 60 days after receipt of the decision.

History Note: Authority G.S. 87-84; 87-87; 87-88; 143-215.3(a)(4);
Eff. April 20, 1978;
Amended Eff. September 1, 2009; April 1, 2001; December 1, 1992; September 1, 1988; September 1, 1984;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0119 DELEGATION

(a) The Secretary is delegated the authority to grant permission for well construction under G.S. 87-87.

(b) The Secretary is delegated the authority to give notices and sign orders for violations under G.S. 87-91.

(c) The Secretary may grant a variance from any construction standard, or the approval of alternate construction methods or materials, specified under Rule .0118 of this Section.

History Note: Authority G.S. 143-215.3(a)(4);
Eff. March 1, 1985;
Amended Eff. October 1, 2009; December 1, 1992;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0201 PURPOSE

The rules in this Section establish classes of injection wells and set forth requirements and procedures for permitting, constructing, operating, monitoring, reporting, and abandoning approved types of injection wells. They also establish standards for abandoning, monitoring, and reporting non-permitted wells used for the injection of wastes or any substance of a composition and concentration such that, if it were discharged to the land or waters of the State, would adversely affect human health or would otherwise render those waters unsuitable for their best intended usage. Except as provided for in G.S. 143-215.1A, the discharge of any wastes to the subsurface by means of wells is prohibited by G.S. 143-214.2(b).

History Note: Authority G.S. 87-84; 87-87; 87-88; 143-211; 143-215.1A;
 143-215.3(a)(1); 143-215.3(c);
Eff. August 1, 1982;
Amended Eff. May 1, 2012; September 1, 1996;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0202 SCOPE

The rules in this Section apply to all construction, operation, use, modification, alteration, repair, and abandonment activities of all injection wells as defined herein. These Rules do not apply to subsurface distribution systems associated with sewage treatment and disposal permits issued in accordance with G.S. 130A.

History Note: Authority G.S. 87-86; 87-87; 143-211; 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. August 1, 1982;
Amended Eff. May 1, 2012; September 1, 1996;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0203 CONFLICT WITH OTHER LAWS, RULES, AND REGULATIONS

The provisions of any federal, county, or municipal laws, rules, or regulations establishing injection well standards affording greater protection to the public welfare, safety, and health and to the groundwater resources shall prevail, within the jurisdiction of such agency or municipality, over standards established by the rules in this Section.

History Note: Authority G.S. 87-87; 87-96; 143-211; 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. August 1, 1982;
Amended Eff. September 1, 1996;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0204 DEFINITIONS

In addition to the terms defined in Rule .0102 of this Subchapter, the following terms and phrases apply:

- (1) "Abandonment or Plugging Record" means a listing of permanent or temporary abandonment of a well and may contain a well log or description of amounts and types of abandonment material used, the method employed for abandonment, a description of formation location, formation thickness, and location of abandonment structures.
- (2) "Aquifer Storage and Recovery Well (ASR)" means a well that is used to inject potable water for the purposes of subsurface storage and for later recovery of the injected water.
- (3) "Area of Review" means the area around an injection well as specified in each applicable rule.
- (4) "Best intended usage" means best usage as used in 15A NCAC 02L .0201 for each groundwater classification.
- (5) "Catastrophic Collapse" means the collapse of overlying strata caused by removal of underlying materials.
- (6) "Closed-Loop Geothermal Well System" means a system of continuous piping, part of which is installed in the subsurface via vertical or angled borings, through which moves a fluid that does not exit the piping, but is used to transfer heat energy between the subsurface and the fluid in association with a heating and cooling system. A variation of this type of system consists of the continuous piping emplaced into a water supply well such that the standing column of groundwater serves as the heat transfer medium.
- (7) "Closed-Loop Groundwater Remediation System" is as defined in G.S. 143-215.1A.

- (8) "Cluster" means two or more geothermal injection wells connected to the same manifold or header of a geothermal heating and cooling system.
- (9) "Confined or Enclosed Space" means any space that has a restricted means of entry and exit and is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere.
- (10) "Confining Zone" means a geological formation, group of formations, or part of a formation that is capable of limiting movement of groundwater.
- (11) "Contaminant" is as defined in 15A NCAC 02L .0102.
- (12) "Flow Rate" means the volume per unit time of a fluid moving past a fixed reference point.
- (13) "Fluid" means a material or substance which is capable of flowing whether in a semisolid, liquid, sludge, gas, or other form or state.
- (14) "Formation Fluid" means fluid present in a formation under natural conditions. This shall not include introduced fluids, such as drilling mud and grout, used to facilitate the construction or development of a well.
- (15) "Generator" means any person, identified by site location, whose act or process produces hazardous waste.
- (16) "Groundwaters" mean those waters occurring in the subsurface under saturated conditions.
- (17) "Hazardous Waste" means any solid, semisolid, liquid, or contained gaseous waste or combination thereof that, because of its quantity, concentration, or physical, chemical or infectious characteristic, may:
 - (a) cause or contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - (b) pose a present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (18) "Hazardous Waste Management Facility" means all contiguous land and structures and other appurtenances and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them).
- (19) "Hose Bibb or Tap" means a fluid sampling port located on or appurtenant to a well.
- (20) "Hydraulic Conductivity" means the volume of water at the existing kinematic viscosity that will move in a porous medium in unit time under a unit hydraulic gradient through a unit area measured at right angles to the direction of flow.
- (21) "Hydraulic or Pneumatic Fracturing" means the intentional act of injecting potable water, ambient air, or other approved fluids, which may carry a proppant, for the purpose of forming new fractures or propagating existing fractures in a geologic formation or portion thereof with the intent of increasing the formation's permeability.
- (22) "Hydrostratigraphic Unit" means a body of rock or unconsolidated sediment distinguished and characterized by observable hydraulic properties that relate to its ability to receive, store, transmit, and yield water.
- (23) "Infiltration gallery" means a subsurface ground absorption system designed for the introduction of treated wastewater into the subsurface environment.
- (24) "Injectant" means a solid or fluid that is emplaced in the subsurface by means of an injection well.
- (25) "Injection" means emplacement or discharge into the subsurface of a solid or fluid substance or material. This definition shall exclude drilling fluids, grout used in association with well construction or abandonment, and fluids used in connection with well development, disinfection, rehabilitation, or stimulation.
- (26) "Injection Well" means any well as defined in G.S. 87-85 whose depth is greater than its largest surface dimension and that is used, or intended to be used, for the injection of fluids or solids into the subsurface or groundwaters.
- (27) "Injection Zone" means a geological formation, group of formations, or part of a formation receiving solids or fluids through an injection well.
- (28) "In-situ Thermal (IST) Well Systems" means a well or wells that are used to apply heat in a targeted subsurface zone to promote remediation, such as electrical resistance heating (ERH), thermal conductive heating (TCH), or steam enhanced extraction (SEE).
- (29) "Lithology" means the description of rocks or sediments on the basis of their physical and chemical characteristics.
- (30) "Lithostratigraphic Unit" means a body of rock or unconsolidated sediment that is distinguished and characterized by observable lithologic features or its position relative to other bodies of rock or unconsolidated sediment.
- (31) "Mechanical Integrity" means:
 - (a) an absence of a leak in the casing, tubing, or packer of an injection well; and

- (b) an absence of fluid movement through vertical channels adjacent to the injection well bore.
- (32) "Operation" means any injection well or system.
- (33) "Oversight agency" means the state or local agency with jurisdiction over a contamination incident.
- (34) "Permit" means an authorization, license, or equivalent control document issued by the Director to implement the requirements of the rules of this Section.
- (35) "Permitted by Rule" means that the injection activity is authorized by the rules of this Section and does not require the issuance of an individual permit when injection wells are constructed and operated in accordance with the rules of this Section.
- (36) "Plug" means the act or process of stopping the flow of fluids into or out of a formation through a borehole or well penetrating that formation.
- (37) "Potable Water" means those waters of the State that are suitable for drinking, culinary, or food processing purposes.
- (38) "Pressure" means the total load or force per unit area acting on a surface.
- (39) "Proppant" means a granular substance such as quartz sand or other material approved by the Department of Health and Human Services' Division of Public Health that is used to hold open cracks formed in the subsurface as a result of hydraulic or pneumatic fracturing.
- (40) "Receptor" means any human, plant, animal, or structure that is, or has the potential to be, affected by the release or migration of contaminants. Any well constructed for the purpose of monitoring groundwater and contaminant concentrations shall not be considered a receptor.
- (41) "Subsidence" means the lowering of the natural land surface in response to earth movements; reduction of formation fluid pressure; removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.
- (42) "Subsurface Distribution System" means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids or solids below the surface of the ground.
- (43) "Transmissivity" means the rate at which water of the prevailing kinematic viscosity is transmitted through a unit width of an aquifer under a unit hydraulic gradient. It equals the hydraulic conductivity multiplied by the aquifer thickness.
- (44) "Thermally Enhanced Grout" is a grout that is used to seal or grout water well annular spaces

and geothermal ground source heat loops. It is engineered to provide efficient heat transfer and to create a low permeability seal.

- (45) "Underground Sources of Drinking Water" means all underground waters of the State classified as existing or potential water supplies in 15A NCAC 02L.
- (46) "Waste" is as defined in G.S. 143-213(18).
- (47) "Waters" or "Waters of the State" is as defined in G.S. 143-212.
- (48) "Water table" is as defined in 15A NCAC 02L .0102.

History Note: Authority G.S. 87-85; 87-87; 143-213; 143-215.1A;

Eff. August 1, 1982;

Amended Eff. May 1, 2012; September 1, 1996; July 1, 1988; March 1, 1984;

Readopted Eff. September 1, 2019.

15A NCAC 02C .0206 CORRECTIVE ACTION

(a) Injection wells not constructed in compliance with these Rules shall be brought into compliance with the rules in this Section or abandoned by the person responsible for the construction of the wells within 30 calendar days of becoming aware of any noncompliance.

(b) If operation of any injection facility is not in compliance with the requirements of the rules in this Section, or if continued operation of the injection facility threatens any water quality standard or classification established under the authority of G.S. 143-214.1, the owner of the injection facility shall:

- (1) stop all injection activities;
- (2) notify the Division orally by the close of the next business day and in writing within five calendar days of becoming aware of any noncompliance;
- (3) perform a site assessment and submit the site assessment to the Division within 30 calendar days of notifying the Division. The Director may approve an alternate time period greater than 30 calendar days based on the severity and extent of noncompliance. The site assessment report shall include a description of:
 - (A) the source and cause of contamination;
 - (B) any imminent hazards to public health and safety and actions taken to mitigate them;
 - (C) all receptors and exposure pathways;
 - (D) the horizontal and vertical extent of soil and groundwater contamination and all factors affecting the contaminant transport; and
 - (E) any geological and hydrogeological features influencing the movement or chemical or physical character of the contaminants; and
- (4) submit a corrective action plan and a proposed schedule for implementation of the corrective action to the Director for approval. In reviewing

the proposed plan and schedule, the Director shall consider the compliance history of the well owner, the severity and extent of noncompliance, and any other criteria necessary for the protection of human health and the environment. The corrective action plan shall include:

- (A) a description of the proposed corrective action and the reasons for its selection;
- (B) specific plans, including engineering details where applicable, for restoring the groundwater quality and for restoring the integrity of the injection facility if the injection activity is to continue;
- (C) a schedule for the implementation and operation of the proposed plan; and
- (D) a monitoring plan for evaluating the effectiveness of the proposed corrective action.

History Note: Authority G.S. 87-87; 87-88; 143-211; 143-215.1A; 143-215.3(a)(1); 143-215.3(c); Eff. August 1, 1982; Amended Eff. May 1, 2012; September 1, 1996; March 1, 1984; Readopted Eff. September 1, 2019.

15A NCAC 02C .0207 MECHANICAL INTEGRITY

(a) An injection well has internal mechanical integrity, meaning there is no leak in the casing, tubing, or packer, as demonstrated by one of the following methods:

- (1) monitoring of the tubing-casing annulus pressure, following an initial pressure test, with sufficient frequency to be representative. This test shall be performed at the well head while maintaining an annulus pressure different from atmospheric pressure;
- (2) pressure testing with liquid or gas; or
- (3) any other method proposed by the permittee and approved by the Director as equally effective.

(b) An injection well has external mechanical integrity, meaning there is no fluid movement into groundwaters through vertical channels adjacent to the injection well bore, as determined by one of the following methods:

- (1) the results of a temperature or noise log;
- (2) grouting records plus predictive calculations demonstrating that the injection pressures will not exceed the strength of the grout; or
- (3) any other method proposed by the permittee and approved by the Director as equally effective.

(c) In conducting and evaluating the tests enumerated in this Section or other tests allowed by the Director, the owner or operator shall apply methods and standards generally accepted in the industry. When the well owner or operator reports the results of mechanical integrity tests, a description of the tests and the methods used shall be included.

(d) The Director may require additional or alternative tests if the results presented by the owner or operator under Paragraph (c) of this Rule do not demonstrate that an injection well has mechanical integrity.

(e) If an injection well fails to demonstrate mechanical integrity, the well owner or operator shall take corrective action as specified in Rule .0206 of this Section.

History Note: Authority G.S. 87-87; 143-211; 143-215.1A; 143-215.3(a)(1); 143-215.3(c); Eff. August 1, 1982; Amended Eff. May 1, 2012; September 1, 1996; March 1, 1984; Readopted Eff. September 1, 2019.

15A NCAC 02C .0208 FINANCIAL RESPONSIBILITY

When required by the rules of this Section, the permittee shall maintain and demonstrate financial responsibility and resources in the form of performance bonds, trust funds, surety bonds, letters of credit, financial tests, insurance or corporate guarantees, or other forms of financial assurances approved by the Director as equivalent to close, plug, and abandon the injection operation.

History Note: Authority G.S. 87-87; 87-88; 143-211; 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 40 C.F.R. 144.52(a)(7); 40 C.F.R. 145.11(a)(20); Eff. August 1, 1982; Amended Eff. May 1, 2012; September 1, 1996; Readopted Eff. September 1, 2019.

15A NCAC 02C .0209 CLASSIFICATION OF INJECTION WELLS

Injection Wells are classified as follows:

- (1) Class 1. No person shall construct, use, or operate an injection well of this class. This class applies to industrial, municipal, and nuclear disposal wells that are used to inject wastes beneath the lowermost formation containing underground sources of drinking water. A description of the primary function for wells of this class is as follows:
 - (a) Hazardous Waste Disposal Well. These wells are used by generators of hazardous wastes or owners of hazardous waste management facilities to inject hazardous waste.
 - (b) Industrial Disposal Well. These wells are used to inject non-hazardous industrial waste.
 - (c) Municipal Disposal Well. These wells are used to inject non-hazardous waste.
 - (d) Nuclear Disposal Well. These wells are used to inject nuclear waste.
- (2) Class 2. No person shall construct, use, or operate an injection well of this class. This class applies to oil and gas production and storage related injection wells and includes wells that are used to inject fluids:

- (a) that are brought to the surface in connection with natural gas storage operations or conventional oil or natural gas production;
 - (b) for enhanced recovery of oil or natural gas; and
 - (c) for storage of hydrocarbons that are liquid at standard temperature and pressure.
 - (3) Class 3. No person shall construct, use, or operate an injection well of this class. This class applies to wells that are used for the purpose of extraction of minerals or energy. A description of the primary function for wells of this class is as follows:
 - (a) In Situ Production of Uranium or Other Metals. This category includes only in-situ production from ore bodies that have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class 5.
 - (b) Solution Mining Well. These wells are used in the solution mining of salts or potash.
 - (c) Sulfur Mining Well. These wells are used in the mining of sulfur by the Frasch process.
 - (4) Class 4. No person shall construct, use, or operate an injection well of this class. This class applies to injection wells that are used to inject hazardous wastes into or above a formation containing an underground source of drinking water and includes wells used by:
 - (a) generators of hazardous wastes or radioactive wastes; and
 - (b) owners of hazardous waste management facilities, or radioactive waste disposal sites.
 - (5) Class 5. This class applies to all injection wells not included in Class 1, 2, 3, 4, or 6.
 - (a) The construction, use, or operation of the following Class 5 injection well types is prohibited. A description of the primary function for these prohibited Class 5 wells is as follows:
 - (i) Agricultural Drainage Well. These wells receive irrigation tailwaters, other field drainage, animal yard, feedlot, or dairy runoff;
 - (ii) Air Scrubber Waste Disposal Well. These wells are used to inject wastes from air scrubbers;
 - (iii) Gaseous Hydrocarbon Storage Well. These wells are used for the storage of hydrocarbons that are gases
- (iv) at standard temperature and pressure;
 - (iv) Groundwater Aquaculture Return Flow Well. These wells inject groundwater or surface water that has been used to support aquaculture;
 - (v) In-situ Fossil Fuel Recovery Well. These wells are used for the in-situ recovery of coal, lignite, oil shale, and tar sands;
 - (vi) Mining, Sand, or Other Backfill Well. These wells are used to inject a mixture of fluid and sand, mill tailings, and other solids into mined out portions of subsurface mines, whether the injectant is a radioactive waste or not. This also includes wells used to control mine fires and acid mine drainage wells;
 - (vii) Motor Vehicle Waste Disposal Well. These wells receive wastes from motor vehicle facilities and include autobody repair shops, new and used car dealerships, specialty repair shops, such as transmission, muffler, and radiator repair shops and any facility that steam cleans or otherwise washes undercarriages or engine parts or does any vehicular repair work;
 - (viii) Sewage or Wastewater Disposal Well. These wells are used to inject sewage or wastewater from any source to the groundwaters of the State. This includes cesspools and abandoned drinking water wells;
 - (ix) Solution Mining Well. These wells are used in solution mining in conventional mines, such as stopes leaching;
 - (x) Special Drainage Well. These wells are used for disposing of water from sources other than direct precipitation. Examples of this well type include: landslide control drainage wells, water tank overflow drainage wells, swimming

- (xi) pool drainage wells, and lake control drainage wells; and Water Softener Regeneration Brine Disposal Well. These wells are used to inject regeneration wastes from water softeners.
- (b) The construction, use, or operation by an individual of the following Class 5 injection well types may be approved by the Director provided that the injected material does not contain any waste or any substance of a composition and concentration such that, if it were discharged to the land or waters of the State, would adversely affect human health or would otherwise render those waters unsuitable for their best intended usage:
- (i) Aquifer Recharge Wells specified in Rule .0218 of this Section;
 - (ii) Aquifer Storage and Recovery Wells specified in Rule .0219 of this Section;
 - (iii) Aquifer Test Wells specified in Rule .0220 of this Section;
 - (iv) Experimental Technology Wells specified in Rule .0221 of this Section;
 - (v) Geothermal Aqueous Closed-Loop Wells specified in Rule .0222 of this Section;
 - (vi) Geothermal Direct Expansion Closed-Loop Wells specified in Rule .0223 of this Section;
 - (vii) Geothermal Heating/Cooling Water Return Wells specified in Rule .0224 of this Section;
 - (viii) Groundwater Remediation Wells specified in Rule .0225 of this Section;
 - (ix) Salinity Barrier Wells specified in Rule .0226 of this Section;
 - (x) Stormwater Drainage Wells specified in Rule .0227 of this Section;
 - (xi) Subsidence Control Wells specified in Rule .0228 of this Section;
 - (xii) Tracer Wells specified in Rule .0229 of this Section; and
 - (xiii) Other Wells specified in Rule .0230 of this Section;
- (6) Class 6. No person shall construct, use, or operate an injection well of this class. This class applies to wells that are used for containment of a gaseous, liquid, or supercritical carbon dioxide stream in subsurface geologic formations.
- History Note: Authority G.S. 87-87; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); Eff. August 1, 1982; Amended Eff. May 1, 2012; September 1, 1996; March 1, 1984; Readopted Eff. September 1, 2019.*
- 15A NCAC 02C .0210 REQUIREMENTS: WELLS USED TO INJECT WASTE OR CONTAMINANTS**
- The owner of any well that has been used to inject wastes or contaminants, with the exception of wells permitted in accordance with this Section, shall take corrective action as specified in Rule .0206(b) of this Section.
- History Note: Authority G.S. 87-87; 87-88; 143-214.2; 143-215.1A; Eff. August 1, 1982; Amended Eff. September 1, 1996; March 1, 1984; Readopted Eff. September 1, 2019.*
- 15A NCAC 02C .0211 GENERAL PERMITTING REQUIREMENTS APPLICABLE TO ALL INJECTION WELL TYPES**
- (a) A permit shall be obtained from the Director prior to constructing, operating, or using any well for injection unless the well is deemed permitted in accordance with the rules of this Section. No permit shall be granted for the injection of wastes or any substance of a composition and concentration such that, if it were discharged to the land or waters of the state, it would adversely affect human health or would otherwise render those waters unsuitable for their best intended usage unless specifically provided for by statute or by the rules in this Section.
- (b) No person shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water if the presence of that contaminant would cause a violation of any applicable groundwater quality standard specified in Subchapter 02L or would otherwise adversely affect human health.
- (c) If at any time the Director learns that any injection well may cause a violation of any applicable groundwater quality standard specified in 15A NCAC 02L that is not authorized by the rules of this Section, the Director shall do one of the following:
- (1) require an individual permit for injection wells that are otherwise permitted by rule;
 - (2) require such actions as may be necessary to prevent the violation, including corrective action as required in Rule .0206 of this Section; or
 - (3) take enforcement action as provided for in G.S. 87-91, G.S. 87-94, or G.S. 87-95.
- (d) All permit applications shall be signed as follows:

- (1) For a corporation: by a responsible corporate officer. For the purposes of this Section, a "responsible corporate officer" means a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
- (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;
- (3) For a municipality, State, federal, or other public agency: by either a principal executive officer or ranking elected official; and
- (4) For all other persons: by the well owner, or his or her agent.

(e) The person signing the permit application shall certify that the data furnished on the application is accurate and that the injection well will be operated in accordance with the approved specifications and conditions of the permit.

(f) All reports shall be signed by a person described in Paragraph (d) of this Rule. All records, reports, and information required to be submitted to the Director and all public comment on these records, reports, or information shall be disclosed to the public unless the person submitting the information can show that such information, if made public, would disclose methods or processes entitled to protection as trade secrets as defined in G.S. 66-152. The Director shall determine which information is entitled to confidential treatment. If the Director determines that such information is entitled to be treated as confidential information as defined in G.S. 132-1.2, the Director shall take steps to protect such information from disclosure.

(g) The Director shall consider the cumulative effects of drilling and construction of multiple wells and operation of all proposed wells during evaluation of permit applications.

(h) All permits shall be issued for a period not to exceed five years from the date of issuance. Permits shall be deemed active until all permit requirements have been met and documentation has been received indicating that the wells meet one of the following conditions:

- (1) the wells are temporarily or permanently abandoned in accordance with Rule .0240 of this Section;
- (2) the wells have been converted to some other use; or
- (3) the wells are permitted under another permit issued by the appropriate permitting authority for that activity.

(i) All facilities shall be operated and maintained to comply with the rules of this Section.

(j) The permittee shall allow the Director or an authorized representative, upon their presentation of credentials and other documents as may be required by law, to:

- (1) enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records are required to be kept under the conditions of the permit;
- (2) have access to and copy, during normal business hours of the establishment, any

records that are required to be kept under the conditions of the permit;

- (3) inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

- (4) sample or monitor for the purposes of assuring permit compliances or as otherwise authorized, any substances or parameters.

(k) The permit may be modified, revoked and reissued, or terminated by the Director in whole or part for actions that would adversely affect human health or the environment. Such actions may include:

- (1) violation of any terms or conditions of the permit;
- (2) obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or
- (3) refusal of the permittee to allow authorized employees of the Division upon proper presentation of credentials to:
 - (A) enter upon permittee's premises on which a system is located where any records are required to be kept under terms and conditions of the permit;
 - (B) have access to and copy any records required to be kept under terms and conditions of the permit;
 - (C) inspect any monitoring equipment or method required in the permit; or
 - (D) collect any sample from the injection facility.

(l) The filing of an application by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance shall not stay any permit condition.

(m) The permittee shall furnish to the Director any information that the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. The permittee shall also furnish to the Director, upon request, copies of records required by the permit to be kept.

(n) The permittee shall retain records of all monitoring information, including all calibration and maintenance records, all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit for a period of at least three years from the date of the sample, measurement, report, or application. Records of monitoring information shall include the:

- (1) date, place, and time of sampling or measurements;
- (2) individuals who performed the sampling or measurements;
- (3) dates analyses were performed;
- (4) individuals who performed the analyses;
- (5) analytical techniques or methods used;
- (6) results of any such sampling, measurements, and analyses; and
- (7) description and date of any maintenance activities performed, including the name and

contact information of the individuals performing such activities.

(o) The permit shall not be transferred to any person without the approval of the Director. A permit ownership or name change request shall be submitted to the Director.

(p) The permittee shall report any monitoring or other information that indicates:

- (1) noncompliance with a specific permit condition;
- (2) a contaminant may cause a violation of applicable groundwater quality standards specified in 15A NCAC 02L; and
- (3) a malfunction of the injection system may cause the injected fluids to migrate outside the approved injection zone or area.

The information shall be provided to the Director orally within 24 hours of the permittee becoming aware of the occurrence and as a written submission within five days of the occurrence. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance including dates and times, the anticipated time it is expected to continue if the noncompliance has not been corrected, and all steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c); 40 CFR 144.52(a)(7); 40 CFR 145.11(a)(20);

Eff. August 1, 1982;

Amended Eff. May 1, 2012; February 1, 1997; October 1, 1996; March 1, 1984;

Readopted Eff. September 1, 2019.

15A NCAC 02C .0217 PERMITTING BY RULE

(a) The following injection well systems shall be deemed to be permitted by the rules of this Section pursuant to G.S. 87-88(a) and it shall not be necessary for the Division to issue an individual permit for the construction or operation of the following injection well systems provided that the system does not result in the violation of any assigned surface water, groundwater, or air quality standard; there is no groundwater discharge of the injectant into surface waters; and all criteria for the specific systems are met:

- (1) Aquifer Test Wells specified in Rule .0220 of this Section;
- (2) Geothermal Aqueous Closed Loop Wells specified in Rule .0222 of this Section;
- (3) Geothermal Direct Expansion Closed Loop Wells specified in Rule .0223 of this Section;
- (4) Groundwater Remediation Wells specified in Rule .0225 of this Section; and
- (5) Stormwater Drainage Wells specified in Rule .0227 of this Section.

(b) Any violation of groundwater standards not authorized by the rules of this Section shall be treated in accordance with Rule .0206 of this Section.

(c) An injection well system permitted by rule under the rules of this Section shall remain permitted by rule until such time as the

Director determines that it shall not be deemed to be permitted. This determination shall be made based on compliance with the provisions of the rules of this Section.

(d) If the Director determines that an injection well system shall not be permitted by rule, the Director shall require the owner of the injection well system to obtain an individual permit.

History Note: Authority G.S. 87-87; 87-88(a);

Eff. May 1, 2012;

Readopted Eff. September 1, 2019.

15A NCAC 02C .0218 AQUIFER RECHARGE WELLS

Aquifer Recharge Wells, which recharge depleted aquifers and inject uncontaminated water of equal or better quality than the aquifer being recharged, shall meet the requirements of Rule .0219 of this Section. However, the Director may impose additional requirements to ensure compliance with G.S. 87-84.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);

Eff. May 1, 2012;

Readopted Eff. September 1, 2019.

15A NCAC 02C .0219 AQUIFER STORAGE AND RECOVERY WELLS

(a) A permit shall be obtained from the Director prior to constructing, operating, or using an Aquifer Storage and Recovery Well. "Aquifer Storage and Recovery Well" means a well that is used to inject potable water for the purposes of subsurface storage and for later recovery of the injected water.

(b) Permit Applications. In addition to the permit requirements set forth in Rule .0211 of this Section, an application shall be submitted, in duplicate, to the Director on forms furnished by the Director and shall include the following:

- (1) A site description that includes:
 - (A) the name of the well owner or person otherwise legally responsible for the injection well, his or her mailing address and telephone number, and whether the owner is a federal, state, private, public, or other entity;
 - (B) the name of the property owner, if different from the well owner, and his or her physical address, mailing address, and telephone number;
 - (C) the name, mailing address, telephone number, and geographic coordinates of the facility for which the application is submitted; and
 - (D) a list of all other injection permits associated with the subject facility.
- (2) Project Description. A description of what problem the project is intended to solve or what objective the project is intended to achieve and shall include the following:
 - (A) the history and scope of the problem or objective;

- (B) what is currently being done to solve the problem or achieve the objective;
 - (C) why existing practices are insufficient to solve the problem or achieve the objective;
 - (D) what other alternatives were considered to solve the problem or achieve the objective; and
 - (E) how this option was determined to be the most effective or desirable to solve the problem or achieve the objective.
 - (3) Demonstration of Financial Responsibility as required in Rule .0208 of this Section.
 - (4) Injection Zone Determination. The applicant shall specify the horizontal and vertical portion of the injection zone within which the proposed injection activity will occur based on the hydraulic properties of that portion of the injection zone specified. No violation of groundwater quality standards specified in Subchapter 02L resulting from the injection shall occur outside the specified portion of the injection zone, as detected by a monitoring plan approved by the Director.
 - (5) Hydrogeologic Evaluation. If required by G.S. 89E, G.S. 89C, or G.S. 89F, a licensed geologist, professional engineer, or licensed soil scientist shall prepare a hydrogeologic evaluation of the facility to a depth that includes the injection zone determined in accordance with Subparagraph (4) of this Paragraph. A description of the hydrogeologic evaluation shall include all of the following:
 - (A) regional and local geology and hydrogeology;
 - (B) changes in lithology underlying the facility;
 - (C) depth to the mean seasonal high water table;
 - (D) hydraulic conductivity, transmissivity, and storativity of the injection zone based on tests of site-specific material, including a description of the tests used to determine these parameters;
 - (E) rate and direction of groundwater flow as determined by predictive calculations or computer modeling; and
 - (F) lithostratigraphic and hydrostratigraphic logs of test and injection wells.
 - (6) Area of Review. The area of review shall be calculated using the procedure for determining the zone of endangering influence specified in 40 CFR 146.6(a), which is hereby incorporated by reference, including subsequent amendments and editions, and can be obtained electronically from the website of the Federal Register at [https://www.ecfr.gov/cgi-bin/](https://www.ecfr.gov/cgi-bin/ECFR)
- The applicant shall identify all wells within the area of review that penetrate the injection or confining zone and repair or permanently abandon all wells that are improperly constructed or abandoned.
- (7) Analyses of the injection zones including:
 - (A) test results of the native groundwater and the proposed recharge water for the parameters listed in Subparagraph (h)(4) of this Rule;
 - (B) geochemical analyses of representative samples of the aquifer matrix to determine the type and quantity of reactive minerals; and
 - (C) evaluation of the chemical compatibility of the native groundwater, injected water, and the aquifer matrix using site-specific geochemical data and hydraulic properties of the injection zones, and the results of any geochemical or hydrogeologic modeling. The chemical compatibility evaluation shall identify potential changes in groundwater quality resulting from the injection activities within the area of review specified in Subparagraph (6) of this Paragraph.
 - (8) Injection Procedure. The applicant shall submit a description of the proposed injection procedure that includes the following:
 - (A) the proposed average and maximum daily rate and quantity of injectant;
 - (B) the average maximum injection pressure expressed in units of pounds per square inch (psi);
 - (C) calculation of fracture pressures of confining units expressed in units of psi; and
 - (D) the total or estimated volume to be injected.
 - (9) Injection well construction details including:
 - (A) the number and depth of injection wells;
 - (B) an indication of whether the injection wells are existing or proposed;
 - (C) the depth and type of casing;
 - (D) the depth and type of screen material;
 - (E) the depth and type of grout; and
 - (F) the plans and specifications of the surface and subsurface construction of each injection well or well system.
 - (10) Monitoring Wells. Monitoring wells shall be located so as to detect any movement of injection fluids, process byproducts, or formation fluids outside the injection zone as determined by the applicant in accordance with Subparagraph (4) of this Paragraph. The monitoring schedule shall be consistent with the

- proposed injection schedule, pace of the anticipated reactions, and rate of transport of the injected fluid. The applicant shall submit a monitoring plan that includes the following:
- (A) a list of monitoring parameters and analytical methods to be used;
 - (B) other parameters that may serve to indicate the progress of the intended reactions;
 - (C) a list of existing and proposed monitoring wells to be used; and
 - (D) a sampling schedule for monitoring the proposed injection.
- (11) **Well Data Tabulation.** A tabulation of data on all existing or abandoned wells within the area of review of the injection wells that penetrate the proposed injection zone, including water supply wells, monitoring wells, and wells proposed for use as injection or monitoring wells. The data shall include a description of each well's type, depth, and record of abandonment or completion.
- (12) **Plan of Action.** A proposed plan of action to be taken if the proposed injection operation causes fracturing of confining units, results in adverse geochemical reactions, or otherwise threatens groundwater quality.
- (13) **Maps and Cross-Sections.** Scaled, site-specific site plans or maps depicting the location, orientation, and relationship of facility components including the following:
- (A) area map based on the most recent USGS 7.5' topographic map of the area, at a scale of 1:24,000, and showing the location of the proposed injection site;
 - (B) topographic contour intervals showing all facility related structures, property boundaries, streams, springs, lakes, ponds, and other surface drainage features;
 - (C) all existing or abandoned wells within the area of review of the injection wells listed in the tabulation required in Subparagraph (11) of this Paragraph that penetrate the proposed injection zone, including water supply wells, monitoring wells, and wells proposed for use as injection wells;
 - (D) potentiometric surface maps of each hydrostratigraphic unit in the injection zone(s) that show the direction of groundwater movement, and all existing and proposed wells;
 - (E) cross-sections that show the horizontal and vertical extent of the injection zones, lithostratigraphic units, hydrostratigraphic units, and all existing and proposed wells, complete with casing and screen intervals; and
- (F) all existing sources of potential or known groundwater contamination, including waste storage, treatment, or disposal systems within the area of review of the injection well or well system.
- (14) Any other information necessary for the Director to ensure compliance with G.S. 87-84.
- (c) **Injection Volumes.** The Director may establish maximum injection volumes and pressures necessary to assure that:
- (1) fractures are not initiated in the confining zones;
 - (2) injected fluids do not migrate outside the injection zone or area;
 - (3) injected fluids do not cause or contribute to the migration of contamination into uncontaminated areas; and
 - (4) there is compliance with operating requirements.
- (d) **Injection.**
- (1) Injection may not commence until construction is complete, the permittee has submitted notice of completion of construction to the Director, and the Director has inspected or reviewed the injection well and finds it in compliance with the permit conditions. If the permittee has not received notice from the Director of intent to inspect or otherwise review the injection well within 10 days after the Director receives the notice, the permittee may commence injection.
 - (2) Prior to granting approval for the operation, the Director shall consider the following information:
 - (A) all available logging and testing data on the well;
 - (B) a demonstration of mechanical integrity pursuant to Rule .0207 of this Section;
 - (C) the proposed operating procedures;
 - (D) the results of the formation testing program; and
 - (E) the status of corrective action on defective wells in the area of review.
- (e) **Well Construction.**
- (1) Wells shall not be located:
 - (A) where surface water or runoff will accumulate around the well due to depressions, drainage ways, or other landscapes that will concentrate water around the well;
 - (B) if a person would be required to enter confined spaces to perform sampling and inspection activities; or
 - (C) if injectants or formation fluids would migrate outside the approved injection zone as determined by the applicant in

- accordance with Subparagraph (b)(4) of this Rule.
- (2) The methods and materials used in construction shall not threaten the physical or mechanical integrity of the well during its lifetime and shall be compatible with the proposed injection activities.
 - (3) The well shall be constructed in such a manner that surface water or contaminants from the land surface cannot migrate along the borehole annulus either during or after construction.
 - (4) The borehole shall not penetrate to a depth greater than the depth at which injection will occur unless the purpose of the borehole is the investigation of the geophysical and geochemical characteristics of an aquifer. Following completion of the investigation, the borehole beneath the zone of injection shall be completely grouted to prevent the migration of any contaminants.
 - (5) Drilling fluids and additives shall contain only potable water and may be comprised of one or more of the following:
 - (A) the formation material encountered during drilling;
 - (B) materials manufactured specifically for the purpose of borehole conditioning or well construction; or
 - (C) materials approved by the Director, based on a demonstration of not adversely affecting human health or groundwater quality.
 - (6) Only grouts listed under Rule .0107 of this Subchapter shall be used with the exception that bentonite grout shall not be used:
 - (A) to seal zones of water with a chloride concentration of 1,500 milligrams per liter or greater as determined by tests conducted at the time of construction; or
 - (B) in areas of the State subject to saltwater intrusion that may expose the grout to water with a chloride concentration of 1,500 milligrams per liter or greater at any time during the life of the well.
 - (7) The annular space between the borehole and casing shall be grouted:
 - (A) with a grout that is non-reactive with the casing or screen materials, the formation, or the injectant;
 - (B) from land surface to the top of the gravel pack and in such a way that there is no interconnection of aquifers or zones having differences in water quality that would result in degradation of groundwater quality in any aquifer or zone; and
 - (C) so that the grout extends outward from the casing wall to a thickness equal to either one-third of the diameter of the outside dimension of the casing or two inches, whichever is greater; but in no case shall a well be required to have an annular grout seal thickness greater than four inches.
 - (8) Grout shall be emplaced around the casing by one of the following methods:
 - (A) Pressure. Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the annular space around the casing and overflows at the surface;
 - (B) Pumping. Grout shall be pumped into place through a hose or pipe extended to the bottom of the annular space that can be raised as the grout is applied. The grout hose or pipe shall remain submerged in grout during the entire application; or
 - (C) Other. Grout may be emplaced in the annular space by gravity flow to ensure complete filling of the space. Gravity flow shall not be used if water or any visible obstruction is present in the annular space at the time of grouting.
 - (9) All grout mixtures shall be prepared prior to emplacement per the manufacturer's directions with the exception that bentonite chips or pellets may be emplaced by gravity flow if water is present or the chips or pellets are otherwise hydrated in place.
 - (10) If an outer casing is installed, it shall be grouted by either the pumping or pressure method.
 - (11) The well shall be grouted within seven days after the casing is set or before the drilling equipment leaves the site, whichever occurs first. If the well penetrates any water-bearing zone that contains saline water, the well shall be grouted within one day after the casing is set.
 - (12) No additives that will accelerate the process of hydration shall be used in grout for thermoplastic well casing.
 - (13) A casing shall be installed that extends from at least 12 inches above land surface to the top of the injection zone.
 - (14) Wells with casing extending less than 12 inches above land surface shall be approved by the Director only when one of the following conditions is met:
 - (A) site specific conditions directly related to business activities, such as vehicle traffic, would endanger the physical integrity of the well; or
 - (B) it is not operationally feasible for the well head to be completed 12 inches

- above land surface due to the engineering design requirements of the system.
- (15) Multi-screened wells shall not connect aquifers or zones having differences in water quality that would result in a degradation of groundwater quality in any aquifer or zone.
 - (16) Prior to removing the equipment from the site, the top of the casing shall be sealed with a water-tight cap or well seal, as defined in G.S. 87-85, to preclude contaminants from entering the well.
 - (17) Packing materials for gravel-and sand-packed wells shall be:
 - (A) composed of quartz, granite, or other hard, non-reactive rock material;
 - (B) of uniform size, water-washed and free from clay, silt, and toxic materials;
 - (C) disinfected prior to subsurface emplacement;
 - (D) emplaced such that it will not connect aquifers or zones having differences in water quality that would result in the deterioration of groundwater quality in any aquifer or zone;
 - (E) evenly distributed around the screen and shall extend to a depth at least one foot above the top of the screen. A one-foot or greater thick seal, comprised of bentonite clay, shall be emplaced directly above and in contact with the packing material.
 - (18) Each injection well shall have a well identification plate that meets the criteria specified in Rule .0107 of this Subchapter.
 - (19) A hose bibb, sampling tap, or other collection equipment shall be installed on the line entering the injection well such that a sample of the injectant can be obtained prior to its entering the injection well.
 - (20) If applicable, all piping, wiring, and vents shall enter the well through the top of the casing unless it is based on a design demonstrated to preclude surficial contaminants from entering the well.
 - (21) The well head shall be completed in such a manner as to preclude surficial contaminants from entering the well, and well head protection shall include:
 - (A) an accessible external sanitary seal installed around the casing and grouting; and
 - (B) a water-tight cap or seal compatible with the casing and installed so that it cannot be removed without the use of hand or power tools.

(f) Testing.

- (1) Well logs and other tests conducted during the drilling and construction of the wells shall be submitted to the Director after completion of well construction. A descriptive report interpreting the results of such logs and tests shall be prepared by a log analyst and submitted to the Director after completion of the tests. The accuracy and usefulness of the logs and tests shall be determined by the Director based on the intended function, depth, construction, and other characteristics of the well, and availability of similar data in the area of the drilling site. Such logs and tests shall include:
 - (A) lithostratigraphic logs of the entire borehole;
 - (B) hydrostratigraphic logs of the entire borehole; and
 - (C) deviation checks conducted on all holes where pilot holes and reaming are used at sufficiently frequent intervals to assure that vertical avenues for fluid migration through diverging holes are not created during drilling.
- (2) When the injection zone is a water-bearing formation, the following information concerning the injection zone as determined by the applicant in accordance with Subparagraph (b)(4) of this Rule shall be submitted to the Director:
 - (A) fluid pressure;
 - (B) fluid temperature;
 - (C) fracture pressure;
 - (D) other physical and chemical characteristics of the injection zone;
 - (E) physical and chemical characteristics of the formation fluids; and
 - (F) compatibility of injected fluids with formation fluids.
- (3) When the injection formation is not a water bearing formation, only the fracture pressure and other physical and chemical characteristics of the injection zone shall be determined or calculated and submitted to the Director after completion of the determinations.
- (4) Tests for mechanical integrity shall be conducted prior to operation and every 10 years thereafter in accordance with Rule .0207 of this Section. The Director may require more frequent mechanical integrity testing as set out in Rule .0207 of this Section.
- (g) Operation and Maintenance.
 - (1) Pressure at the well head shall be limited to a maximum that will ensure that the pressure in the injection zone does not initiate new fractures or propagate existing fractures in the injection zone, initiate fractures in the confining zone, or cause the migration of injected or

- formation fluids outside the injection zone or area.
- (2) There shall be no injection between the outermost casing and the well borehole.
- (3) Monitoring of the operating processes at the well head and protection against damage of the well head during construction and use shall be provided for by the well owner.
- (h) Monitoring.
 - (1) Monitoring of the groundwater quality by the permittee shall be required by the Director to demonstrate protection of the groundwaters of the State.
 - (2) In determining the type, density, frequency, and scope of monitoring, the Director shall consider the following:
 - (A) physical and chemical characteristics of the injection zone;
 - (B) physical and chemical characteristics of the injected fluids;
 - (C) volume and rate of discharge of the injected fluids;
 - (D) compatibility of the injected fluids with the formation fluids;
 - (E) the number, type, and location of all wells, mines, surface bodies of water, and structures within the area of review;
 - (F) proposed injection procedures;
 - (G) expected changes in pressure, formation fluid displacement, and direction of movement of injected fluid;
 - (H) proposals of corrective action to be taken in the event of a failure in any phase of injection operations that renders the groundwaters unsuitable for their best intended usage as defined in Rule .0204 of this Section; and
 - (I) the life expectancy of the injection operations.
 - (3) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
 - (4) The following analytical parameters shall be included:
 - (A) disinfectants and disinfection byproducts;
 - (B) radium, radionuclides, and gross alpha radiation;
 - (C) Reduction Potential (Eh), pH, Total Dissolved Solids (TDS), Biological Oxygen Demand (BOD), Total Oxygen Demand (TOD), Chemical Oxygen Demand (COD), temperature, conductivity, and dissolved oxygen;
 - (D) coliform, *Escherichia coli* (E. Coli), *Giardia*, and *Cryptosporidium*;
 - (E) parameters based on the source water, injection zone formation materials, native groundwater, and any other parameters necessary for the Department to ensure compliance with G.S. 87-84; and
 - (F) other parameters for which National Primary and Secondary Drinking Water Standards have been established.
 - (5) Analysis of the physical, chemical, biological, or radiological characteristics of the injected fluid shall be made monthly or more frequently, as necessary in order to provide representative data for characterization of the injectant.
 - (6) Continuous recording devices to monitor the injection pressure, flow, rate, and volume of injected fluid shall be installed.
 - (7) Monitoring wells associated with the injection site shall be monitored quarterly or on a schedule determined by the Director to detect any migration of injected fluids from the injection zone to ensure compliance with G.S. 87-84.
 - (8) Monitoring wells completed in the injection zone and adjacent to the injection zone may be affected by the injection operations. If affected, the Director may require additional monitor wells be installed outside the injection zone to detect any movement of injection fluids, process byproducts, or formation fluids outside the injection zone as determined by the applicant in accordance with Subparagraph (b)(4) of this Rule. If the operation is affected by subsidence or catastrophic collapse, additional monitoring wells shall be located so that they will not be physically affected and shall be of an adequate number to detect movement of injected fluids, process byproducts, or formation fluids outside the injection zone or area. In determining the number, location, and spacing of monitoring wells, the following criteria shall be considered by the Director:
 - (A) the population relying on the groundwater resource affected, or potentially affected, by the injection operation;
 - (B) the proximity of the injection operation to points of withdrawal of groundwater;
 - (C) the local geology and hydrology;
 - (D) the operating pressures;
 - (E) the chemical characteristics and volume of the injected fluid, formation water, and process by products; and
 - (F) the number of existing injection wells.
- (i) Reporting.

- (1) A record of the construction, abandonment, or repairs of the injection well shall be submitted to the Director within 30 days of completion of the specified activities.
- (2) All sampling results shall be reported to the Division quarterly or at another frequency determined by the Director based on the reaction rates, injection rates, likelihood of secondary impacts, and site-specific hydrogeologic information.
- (3) The results of each test required in Paragraph (f) of this Rule shall be submitted to the Director within 30 days of the completion of the test.

(j) Public Notice. Public notice of intent to issue permits for applications submitted pursuant to this Rule shall be given prior to permit issuance.

- (1) Such notice shall:
 - (A) be posted on the Division website and given in press releases via media outlets having coverage within the area of review;
 - (B) provide 30 days for public comments to be submitted to the Director; and
 - (C) include a description of details of the project, such as the permit applicant; the location, number, and depth of injection wells; and the injectant type, source, and volume.
- (2) After the public comment period has ended the Director shall:
 - (A) consider the comments submitted and determine if a public hearing is warranted;
 - (B) determine if the draft permit shall be issued, modified, or denied; and
 - (C) post notice on the Division website as of the final permitting action, which shall include the issued permit or the reason for denial if the permit was denied.
- (3) In determining if a public hearing is warranted, the Director's consideration shall include the following:
 - (A) requests by property owners within the area of review;
 - (B) potential harm to the public by not having a public hearing;
 - (C) potential harm to the applicant due to the delay in having a public hearing; and
 - (D) the likelihood of obtaining new information regarding the proposed injection.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;

Readopted Eff. September 1, 2019.

15A NCAC 02C .0220 AQUIFER TEST WELLS

- (a) "Aquifer Test Wells" means wells used to inject uncontaminated fluid into an aquifer to determine the aquifer characteristics.
- (b) Injection wells of this type shall be permitted by rule when constructed and operated in accordance with this Rule.
- (c) Only potable water shall be injected through this type of injection well.
- (d) Tests for mechanical integrity shall be conducted in accordance with Rule .0207 of this Section.
- (e) Injection wells of this type shall be constructed in accordance with the well construction standards applicable to monitoring wells specified in Rule .0108 of this Subchapter;
- (f) The operation of the aquifer test well shall not cause contaminated groundwater to migrate into an area not contaminated prior to initiation of injection activities or cause a violation of applicable groundwater quality standards as specified in 15A NCAC 02L.
- (g) Within 30 days of a change of status of the well, the owner/operator shall provide the following information:
 - (1) facility name, address, and location indicated by either:
 - (A) latitude and longitude with reference datum, position accuracy, and method of collection; or
 - (B) a facility site map with property boundaries;
 - (2) name, telephone number, and mailing address of person responsible for installation or operation of the well;
 - (3) ownership of facility as a private individual or organization or a federal, State, county, or other public entity;
 - (4) number of injection wells and their construction details; and
 - (5) well status as proposed, active, inactive, temporarily abandoned, or permanently abandoned.
- (h) A record of the construction, abandonment, or repairs of the injection well shall be submitted to the Director within 30 days of completion of the specified activities.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0221 EXPERIMENTAL TECHNOLOGY WELLS

"Experimental Technology Wells" means wells used in experimental or unproven technologies whose operation complies with all applicable rules and statutes. Experimental Technology Wells shall comply with the rules governing the injection well types in Rule .0209(5)(b) of this Section that most closely resembles the Experimental Technology Well's hydrogeologic complexity and potential to adversely affect groundwater quality.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0222 GEOTHERMAL AQUEOUS CLOSED-LOOP WELLS

(a) "Geothermal Aqueous Closed-Loop Wells" means wells that house a subsurface system of closed-loop pipe that circulates potable water only or a mixture of potable water and performance-enhancing additives such as antifreeze, corrosion inhibitors, or scale inhibitors for heating and cooling purposes. Only additives that the Department of Health and Human Services' Division of Public Health determines not to adversely affect human health in compliance with G.S. 130A-5 shall be used.

(b) Permitted by Rule. Aqueous Closed-Loop Geothermal Wells are permitted by rule when constructed and operated in accordance with the rules of this Section.

(c) Individual Permits. If an individual permit is required pursuant to Rule .0217 of this Section, then an application for permit renewal shall be made at least 120 days prior to the expiration date of the permit.

(d) Notification. In addition to the requirements set forth in Rule .0211 of this Section, notification for systems designed to serve a single family residence shall be submitted two or more business days prior to construction and at least 30 days for all other installations. The notification shall be submitted to the Director and to the county health department. The notification shall be made using one form per facility supplied by the Director and shall include:

- (1) the well owner's name, address, telephone number, email address (if available), and whether the owner is a federal, State, private, public, or other entity. If the well operator is different from the owner then the same information shall be provided for the well operator;
- (2) the physical location of the well facility;
- (3) a description of the proposed injection activities;
- (4) a scaled, site-specific map showing the following:
 - (A) any water supply well and surface water body; septic system including drainfield, waste application area, and repair area; and any other potential sources of contamination listed in Subparagraph (e)(5) of this Rule within 250 feet of the proposed injection wells;
 - (B) property boundaries within 250 feet of the parcel where the proposed wells are located; and
 - (C) an arrow orienting the site to one of the cardinal directions;
- (5) the types and concentrations of additives, if any, to be used in the closed-loop geothermal well system. Only additives approved by the

Department of Health and Human Services shall be used in any closed loop geothermal well system;

- (6) plans and specifications of the surface and subsurface construction details of the system;
- (7) the heating and cooling system installation contractor's name and certification number, address, email address (if available), and telephone number;
- (8) a description of how the items identified in Part (d)(4)(A) of this Rule will be protected during well construction; and
- (9) any other information necessary for the Department to ensure compliance with G.S. 87-84.

(e) Well Construction.

- (1) Only tubing that meets the specifications in Chapter 12 of the North Carolina Mechanical Code shall be used, which is hereby incorporated by reference, including subsequent amendments and editions, and can be accessed at no cost at <http://www.ncdoi.com/osfm/>.
- (2) Drilling fluids and water produced during well construction shall be managed to prevent direct discharges to surface waters as well as violations of groundwater and surface water quality standards. Plans for such preventive measures shall be retained onsite throughout the construction process.
- (3) The well shall be constructed in a manner that surface water or contaminants from the land surface cannot migrate along the borehole annulus at any time during or after construction.
- (4) The well shall be located such that:
 - (A) the injection well is not in an area where surface water or runoff will accumulate around the well due to depressions, drainage ways, or other landscape features that will concentrate water around the well; and
 - (B) the injection well is not in an area that requires a person to enter confined spaces to perform sampling and inspection activities.
- (5) The horizontal separation between the geothermal aqueous closed-loop well and potential sources of groundwater contamination that exist at the time the wells are constructed shall be no less than as follows:
 - (A) Building perimeters, including any attached structures for which a building permit is required, such as garages, patios, or decks, regardless of foundation construction type
15 feet
 - (B) Septic systems, including drainfield, waste application area, and repair area
50 feet

- (C) Industrial or municipal sewage or liquid waste collection or transmission sewer mains constructed to water main standards as stated in the American Water Works Association (AWWA) Standards C600 and/or C900
15 feet
- (D) Water-tight sewer lateral lines from a residence or other non-public system to a sewer main or other wastewater disposal system
15 feet
- (E) Other industrial or municipal sewage or liquid waste collection or transmission sewer mains
25 feet
- (F) Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N with secondary containment
50 feet
- (G) Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N without secondary containment
100 feet
- (H) Above ground or underground storage tanks that contain petroleum fuels used for heating equipment, boilers, or furnaces, except for tanks used solely for storage of propane, natural gas, or liquefied petroleum gas
50 feet
- (I) Land-based or subsurface waste storage or disposal systems
50 feet
- (J) Gravesites
50 feet
- (K) Any other potential sources of contamination
50 feet
- (6) The methods and materials used in construction shall not threaten the physical and mechanical integrity of the well and any tubing during its lifetime and shall be compatible with the proposed injection activities.
- (7) Drilling fluids shall contain only potable water and may be comprised of one or more of the following:
 - (A) the formation material encountered during drilling; and
 - (B) materials manufactured specifically for the purpose of borehole conditioning or well construction.
- (8) Thermally enhanced bentonite slurry grout shall be used. This grout shall consist of a mixture of not more than 22 gallons of potable water, one 50-pound bag of thermally enhanced commercial Wyoming sodium bentonite, and up to 400 pounds of clean dry 50-70 mesh silica sand. The amount of silica sand may be varied to achieve the thermal conductivity desired of the grout. The thermally enhanced grout slurry shall only be used in accordance with the manufacturers written instructions and shall meet permeability standards in accordance with Rule .0107 of this Subchapter.
- (9) Bentonite grout shall not be used:
 - (A) to seal zones of water with a chloride concentration of 1,500 milligrams per liter or greater as determined by tests conducted at the time of construction; or
 - (B) in areas of the State subject to saltwater intrusion that may expose the grout to water with a chloride concentration of 1,500 milligrams per liter or greater at any time during the life of the well.
- (10) No additives that will accelerate the process of hydration shall be used in grout for thermoplastic well casing.
- (11) Grout shall be placed the entire length of the well boring from the bottom of the boring to land surface or, if completed below land surface, to the well header or manifold connection.
- (12) The grout shall be emplaced by one of the following methods:
 - (A) Pressure. Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the borehole or annular space around the casing and overflows at the surface; or
 - (B) Pumping. Grout shall be pumped into place through a hose or pipe extended to the bottom of the borehole or annular space which can be raised as the grout is applied. The grout hose or pipe shall remain submerged in grout during the entire application.
- (13) If temporary outer casing is installed, it shall be removed during grouting of the borehole in a way that maintains the integrity of the borehole and uniform grout coverage around the geothermal tubing.
- (14) If a permanent outer casing is installed:
 - (A) The space between the interior wall of the casing and the geothermal tubing shall be grouted the entire length of the well boring from the bottom of the boring to land surface or, if completed below land surface, to the well header or manifold connection;
 - (B) The annular space between the casing and the borehole shall be grouted with a grout that is non-reactive with the casing or the formation;
 - (C) Grout shall extend outward in all directions from the casing wall to borehole wall and have a thickness equal to either one-third of the diameter of the outside dimension of

- the casing or two inches, whichever is greater; and
- (D) In no case shall a well be required to have an annular grout seal thickness greater than four inches.
- (15) Grout emplacement shall not threaten the physical or mechanical integrity of the well.
- (16) The well shall be grouted within seven days after drilling is complete or before the drilling equipment leaves the site, whichever occurs first. If the well penetrates any water-bearing zone that contains contaminated or saline water, the well shall be grouted within one day after the casing is set.
- (17) Prior to removing the equipment from the site, the top of the casing shall be sealed with a water-tight cap or well seal, as defined in G.S. 87-85, to preclude contaminants from entering the well.
- (18) Well head completion shall be conducted in a manner so as to preclude surficial contaminants from entering the well.
- (f) **Well Location.** The location of each well boring and appurtenant underground piping leading to all heat exchangers shall be identifiable such that they may be located, repaired, and abandoned as necessary after construction.
- (1) The as-built locations of each well boring, header pit, and appurtenant underground piping shall be recorded on a scaled site-specific facility map, which shall be retained onsite and distributed as specified in Subparagraph (i)(1) of this Rule.
- (2) Each well boring and header pit shall be located by a North Carolina registered land surveyor, a GPS receiver, or by triangulation from at least two permanent features on the site, such as building foundation corners or property boundary iron pins.
- (3) Well boring and appurtenant underground piping locations shall be identifiable in the field by tracer wire and warning tape, concrete monuments, or any other method approved by the Director upon a demonstration that such a method provides a reliable and accurate method of detection.
- (4) If tracer wire and warning tape are used, then tracer wire consisting of copper wire of at least 14 gauge shall be placed adjacent to all horizontal piping during pipe installation, and warning tape shall be installed directly above the horizontal piping approximately 12 inches below final grade.
- (5) If concrete monuments are used, then each monument shall be located directly above each individual well, at the perimeter corners of each well field, or in the center of each well cluster. Each concrete monument shall be permanently affixed with an identification plate constructed of durable, weatherproof, rustproof metal or

other material approved by the Director as equivalent, which shall be stamped with the following information:

- (A) well contractor name and certification number;
- (B) number and depth of the borings;
- (C) grout depth interval;
- (D) well construction completion date; and
- (E) identification as a geothermal well or well field.

(g) **Testing.**

- (1) Closed loop tubing shall pass a pressure test on-site prior to installation into the borehole. Any closed loop tubing that fails the pressure test shall either not be used or shall pass a subsequent pressure test prior to installation and after all leaks have been located and repaired.
- (2) The closed loop well system shall pass a pressure test after installation and prior to operation. Any pressure fluctuation other than that due to thermal expansion and contraction of the testing medium shall be considered a failed test. Any leaks shall be located and repaired prior to operating the system.

(h) **Operation.**

- (1) The well shall be protected against damage during construction and use.
- (2) The well shall be operated and maintained in accordance with the manufacturer's specifications throughout its operating life.

(i) **Monitoring and Reporting.**

- (1) The well owner shall submit the as-built well locations as documented in accordance with Paragraph (f) of this Rule to the Director and the appropriate county health department. The well owner shall also record these documents with the register of deeds of the county in which the facility is located.
- (2) Upon sale or transfer of the property, the owner shall give a copy of these records to the new property owner or owners.
- (3) The Director may require any monitoring necessary to ensure compliance with G.S. 87-84.
- (4) The permittee shall report any leaks to the Division during the lifetime of the well.
- (5) A record of the construction, abandonment, or repairs of the injection well shall be submitted to the Director within 30 days of completion of the specified activities.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0223 GEOTHERMAL DIRECT EXPANSION CLOSED-LOOP WELLS

(a) "Geothermal Direct Expansion Closed-Loop Wells" means wells used to house a subsurface system of closed-loop pipe that circulates refrigerant gas for heating and cooling purposes. Only gases that the Department of Health and Human Services' Division of Public Health determines not to adversely affect human health in compliance with G.S. 130A-5 shall be used.

(b) Permitted by Rule. Direct Expansion Closed-Loop Geothermal Wells are permitted by rule when constructed and operated in accordance with the rules of this Section.

(c) Individual Permits. If an individual permit is required pursuant to Rule .0217 of this Section, then an application for permit renewal shall be made at least 120 days prior to the expiration date of the permit.

(d) Notification. In addition to the requirements set forth in Rule .0211 of this Section, notification for systems designed to serve a single family residence shall be submitted two or more business days prior to construction and 30 days or more for all other installations. The notification shall be submitted to the Director and to the county health department. The notification shall be made using one form per operation supplied by the Director and shall include:

- (1) the well owner's name, address, telephone number, email address (if available), and whether the owner is a federal, State, private, public, or other entity. If the well operator is different from the owner then the same information shall be provided for the well operator;
- (2) the physical location of the well;
- (3) a description of the proposed injection activities;
- (4) a scaled, site specific map showing the following:
 - (A) any water supply well and surface water body; septic system including drainfield, waste application area, and repair area; and any other potential sources of contamination listed in Subparagraph (e)(6) of this Rule within 250 feet of the proposed injection wells;
 - (B) property boundaries within 250 feet of the parcel where the proposed wells are located; and
 - (C) an arrow orienting the site to one of the cardinal directions;
- (5) the type of gas to be used in the closed-loop geothermal well system. Only approved gases shall be used in any closed loop geothermal well system;
- (6) plans and specifications of the surface and subsurface construction details of the system;
- (7) the heating and cooling system installation contractor's name and certification number, address, email address (if available), and telephone number;

- (8) a description of how the items identified in Part (d)(4)(A) of this Rule will be protected during well construction; and
- (9) any other information necessary for the Department to ensure compliance with G.S. 87-84.

(e) Well Construction.

- (1) Only tubing that meets the specifications in Chapter 12 of the North Carolina Mechanical Code shall be used.
- (2) All systems shall be constructed with cathodic protection unless testing conducted in accordance with Paragraph (g) of this Rule indicates that all pH test results are within the range of 5.5 to 11.0 standard units.
- (3) Drilling fluids and water produced during well construction shall be managed to prevent direct discharges to surface waters and violations of groundwater and surface water quality standards. Plans for such preventive measures shall be retained onsite throughout the construction process.
- (4) The well shall be constructed in a manner that surface water or contaminants from the land surface cannot migrate along the borehole annulus at any time during or after construction.
- (5) The well shall be located such that:
 - (A) the injection well is not in an area where surface water or runoff will accumulate around the well due to depressions, drainage ways, or other landscape features that will concentrate water around the well; and
 - (B) the injection well is not in an area that requires a person to enter confined spaces to perform sampling and inspection activities.
- (6) The horizontal separation between the geothermal direct expansion closed-loop well and potential sources of groundwater contamination that exist at the time the wells are constructed shall be no less than as follows:
 - (A) Building perimeters, including any attached structures for which a building permit is required, such as garages, patios, or decks, regardless of foundation construction type
15 feet
 - (B) Septic systems, including drainfield, waste application area, and repair area
50 feet
 - (C) Industrial or municipal sewage or liquid waste collection or transmission sewer mains constructed to water main standards as stated in the American Water Works Association (AWWA) Standards C600 and/or C900
15 feet

- (D) Water-tight sewer lateral lines from a residence or other non-public system to a sewer main or other wastewater disposal system 15 feet
- (E) Other industrial or municipal sewage or liquid waste collection or transmission sewer mains 25 feet
- (F) Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N with secondary containment 50 feet
- (G) Chemical or petroleum fuel underground storage tank systems regulated under 15A NCAC 02N without secondary containment 100 feet
- (H) Above ground or underground storage tanks that contain petroleum fuels used for heating equipment, boilers, or furnaces, except for tanks used solely for storage of propane, natural gas, or liquefied petroleum gas 50 feet
- (I) Land-based or subsurface waste storage or disposal systems 50 feet
- (J) Gravesites 50 feet
- (K) Any other potential sources of contamination 50 feet
- (7) Angled boreholes shall not be drilled in the direction of underground petroleum or chemical storage tanks unless it can be demonstrated to the satisfaction of the Director that doing so will not adversely affect human health or cause a violation of a groundwater quality standard as specified in Subchapter 02L.
- (8) The methods and materials used in construction shall not threaten the physical and mechanical integrity of the well during its lifetime and shall be compatible with the proposed injection activities.
- (9) Drilling fluids shall contain only potable water and may be comprised of one or more of the following:
 - (A) the formation material encountered during drilling; and
 - (B) materials manufactured specifically for the purpose of borehole conditioning or well construction.
- (10) Thermally enhanced bentonite slurry grout shall be used. This grout shall consist of a mixture of not more than 22 gallons of potable water, one 50-pound bag of thermally enhanced commercial Wyoming sodium bentonite, and up to 400 pounds of clean dry 50-70 mesh silica sand. The amount of silica sand may be varied to achieve the thermal conductivity desired of the grout. The thermally enhanced grout slurry shall only be used in accordance with the manufacturers written instructions.
- (11) Bentonite grout shall not be used:
 - (A) to seal zones of water with a chloride concentration of 1,500 milligrams per liter or greater as determined by tests conducted at the time of construction; or
 - (B) in areas of the State subject to saltwater intrusion that may expose the grout to water with a chloride concentration of 1,500 milligrams per liter or greater at any time during the life of the well.
- (12) No additives that will accelerate the process of hydration shall be used in grout for thermoplastic well casing.
- (13) Grout shall be placed the entire length of the well boring from the bottom of the boring to land surface or, if completed below land surface, to the well header or manifold connection.
- (14) The grout shall be emplaced by one of the following methods:
 - (A) Pressure. Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the borehole or annular area space the casing and overflows at the surface; or
 - (B) Pumping. Grout shall be pumped into place through a hose or pipe extended to the bottom of the borehole or annular space which can be raised as the grout is applied. The grout hose or pipe shall remain submerged in grout during the entire application.
- (15) If temporary outer casing is installed, it shall be removed during grouting of the borehole in a way that maintains the integrity of the borehole and uniform grout coverage around the geothermal tubing.
- (16) If a permanent outer casing is installed:
 - (A) The space between the interior wall of the casing and the geothermal tubing shall be grouted the entire length of the well boring from the bottom of the boring to land surface or, if completed below land surface, to the well header or manifold connection.
 - (B) The annular space between the casing and the borehole shall be grouted with a grout that is non-reactive with the casing or the formation.
 - (C) Grout shall extend outward in all directions from the casing wall to borehole wall and have a thickness equal to either one-third of the diameter of the outside dimension of the casing or two inches, whichever is greater; and

- (D) In no case shall a well be required to have an annular grout seal thickness greater than four inches.
- (17) Grout emplacement shall not threaten the physical or mechanical integrity of the well.
- (18) The well shall be grouted within seven days after drilling is complete or before the drilling equipment leaves the site, whichever occurs first. If the well penetrates any water-bearing zone that contains contaminated or saline water, the well shall be grouted within one day after the casing is set.
- (19) Prior to removing the equipment from the site, the top of the casing shall be sealed with a water-tight cap or well seal, as defined in G.S. 87-85, to preclude contaminants from entering the well.
- (20) Well head completion shall be conducted in a manner so as to preclude surficial contaminants from entering the well.
- (f) **Well Location.** The location of each well boring and appurtenant underground piping leading to all heat exchangers shall be identifiable such that they may be located, repaired, and abandoned as necessary after construction.
- (1) The as-built locations of each well boring, header pit, and appurtenant underground piping shall be recorded on a scaled site-specific facility map, which shall be retained onsite and distributed as specified in Subparagraph (i)(1) of this Rule.
- (2) Each well boring and header pit shall be located by a North Carolina registered land surveyor, a GPS receiver, or by triangulation from at least two permanent features on the site, such as building foundation corners or property boundary iron pins.
- (3) Well boring and appurtenant underground piping locations shall be identifiable in the field by tracer wire and warning tape, concrete monuments, or any other method approved by the Director upon a demonstration that such a method provides a reliable and accurate method of detection.
- (4) If tracer wire and warning tape are used, then tracer wire consisting of copper wire of at least 14 gauge shall be placed adjacent to all horizontal piping during pipe installation, and warning tape shall be installed directly above the horizontal piping approximately 12 inches below final grade.
- (5) If concrete monuments are used, then each monument shall be located directly above each individual well, at the perimeter corners of each well field, or in the center of each well cluster. Each concrete monument shall be permanently affixed with an identification plate constructed of durable, weatherproof, rustproof metal or other material approved by the Director as

- equivalent, which shall be stamped with the following information:
- (A) well contractor name and certification number;
- (B) number and depth of the borings;
- (C) grout depth interval;
- (D) well construction completion date; and
- (E) identification as a geothermal well or well field.
- (g) **Testing.**
- (1) Closed loop tubing shall pass a pressure test on-site prior to installation into the borehole. Any closed loop tubing that fails the pressure test shall either not be used or shall pass a subsequent pressure test prior to installation and after all leaks have been located and repaired.
- (2) The closed loop well system shall pass a pressure test after installation and prior to operation. Any pressure fluctuation other than that due to thermal expansion and contraction of the testing medium shall be considered a failed test. Any leaks shall be located and repaired prior to operating the system.
- (3) When not providing cathodic protection as specified in Subparagraph (e)(2) of this Rule drilling cuttings shall be tested for pH at a frequency of at least every 10 feet of boring length using a pH meter that has been calibrated prior to use according to the manufacturer's instructions.
- (h) **Operation.**
- (1) The well shall be protected against damage during construction and use.
- (2) The well shall be operated and maintained in accordance with the manufacturer's specifications throughout its operating life. Cathodic protection, if required, shall be maintained at all times in accordance with the manufacturer's specifications throughout the operating life of the wells.
- (i) **Monitoring and Reporting.**
- (1) The well owner shall submit the as-built well locations as documented in accordance with Paragraph (f) of this Rule to the Director and the appropriate county health department. The well owner shall also record these documents with the register of deeds of the county in which the facility is located.
- (2) Upon sale or transfer of the property, the owner shall give a copy of these records to the new property owner or owners.
- (3) The Director may require any monitoring necessary to ensure compliance with G.S. 87-84.
- (4) The permittee shall report any leaks to the Division during the lifetime of the well.
- (5) A record of the construction, abandonment, or repairs of the injection well shall be submitted

to the Director within 30 days of completion of the specified activities.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0224 GEOTHERMAL HEATING AND COOLING WATER RETURN WELLS

(a) "Geothermal Heating and Cooling Water Return Wells" means wells that reinject groundwater used to provide heating or cooling for structures. These wells shall not be approved by the Director unless the temperature of the injection fluid does not exceed 30 degrees Fahrenheit above or below the naturally occurring temperature of the receiving groundwater, including wells using a geothermal fluid source. No Geothermal Heating and Cooling Water Return Well shall be constructed, repaired, or operated without a permit.

(b) Permit Applications. In addition to the permit requirements set forth in Rule .0211 of this Section, an application shall be submitted, in duplicate, to the Director made using one form per operation supplied by the Director and shall include the following:

- (1) the well owner's name, address, telephone number, email address (if available), and whether the owner is a federal, State, private, public, or other entity. If the well operator is different from the owner, then the same information shall be provided for the well operator;
- (2) the physical address of the location of the well site if different than the well owner's mailing address;
- (3) a description of the injection activities proposed by the applicant;
- (4) a scaled, site-specific map showing at a minimum, the following:
 - (A) any water supply well and surface water body; septic system including drainfield, waste application area, and repair area; and any other potential sources of contamination listed under Rule .0107 of this Subchapter within 250 feet of the proposed injection wells;
 - (B) property boundaries within 250 feet of the parcel on which the proposed wells are located; and
 - (C) an arrow orienting the site to one of the cardinal directions;
- (5) the proposed average and maximum daily injection rate, volume, pressure, temperature, and quantity of fluid to be injected;
- (6) plans and specifications of the surface and subsurface construction details of the system including a schematic of the injection and source wells construction;

- (7) the heating and cooling system installation contractor's name, address, email address (if available), and telephone number; and
- (8) any other information necessary for the Department to ensure compliance with G.S. 87-84.

(c) Permit Renewals. Application for permit renewal shall be made at least 120 days prior to the expiration date of the permit.

(d) Well Construction.

- (1) A water supply well providing water for a separate geothermal heating and cooling injection well shall be constructed in accordance with the requirements of Rule .0107 of this Subchapter.
- (2) A geothermal heating and cooling water return injection well constructed with a well screen shall also be constructed in accordance with the requirements of Rule .0107 of this Subchapter except that the entire length of the casing shall be grouted from the top of the sand or gravel pack to the land surface in such a way that there is no interconnection of aquifers or zones having differences in water quality that would result in the degradation of groundwater quality of any aquifer or zone.
- (3) For open-end geothermal heating and cooling water return wells (also referred to as open-hole wells), the casing shall be grouted from the bottom of the casing to the land surface in such a way that there is no interconnection of aquifers or zones having differences in water quality that would result in degradation groundwater quality of any aquifer or zone.
- (4) The injection well system shall be constructed such that sampling taps or other collection equipment approved by the Director provides a functional source of water when the system is operational. Such equipment shall provide the means to collect a water sample after emerging from the water supply well (influent sample), and immediately prior to injection into the return well (effluent sample).

(e) Operation and Maintenance.

- (1) Pressure at the well head shall be limited to ensure that the pressure in the injection zone does not initiate new fractures or propagate existing fractures in the injection zone, initiate fractures in the confining zone, or cause the migration of injected or formation fluids outside the injection zone or area.
- (2) Injection between the outermost casing and the well borehole shall be prohibited.
- (3) The well owner shall monitor the operating processes and protect the well against damage during construction and use.

(f) Monitoring and Reporting.

- (1) Monitoring of any well may be required by the Director as necessary to ensure compliance with G.S. 87-84.

- (2) The well owner shall retain copies of records of site maps showing the location of the injection wells and any testing, calibration, or monitoring information done on-site. Upon sale or transfer of the property, the owner shall give a copy of these records to the new property owner or owners.
- (3) The permittee shall record the number and location of the wells with the register of deeds in the county in which the facility is located.
- (4) A record of the construction, abandonment, or repairs of the injection well shall be submitted to the Director within 30 days of completion of the specified activities.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;
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15A NCAC 02C .0225 GROUNDWATER REMEDIATION WELLS AND SYSTEMS

(a) "Groundwater Remediation Wells" means wells that are used to inject additives, treated groundwater, or ambient air for the treatment of contaminated soil or groundwater. Only additives that the Department of Health and Human Services' Division of Public Health determines not to adversely affect human health in compliance with G.S. 130A-5 shall be approved for injection.

(b) "Groundwater Remediation Systems" include infiltration galleries and injection wells. When on-site contaminated groundwater is used, the groundwater remediation injection wells shall be permitted in accordance with G.S. 143-215.1A.

(c) Permitted by Rule. The following are permitted by rule pursuant to Rule .0217 of this Section if constructed and operated in accordance with the rules of this Section, all criteria for the specific injection system are met, hydraulic or pneumatic fracturing are not conducted, and the injection wells or injection activities do not result in the violation of any groundwater or surface water standard outside the injection zone:

- (1) Passive Injection Systems that use in-well delivery systems to diffuse injectants into the subsurface;
- (2) Small-scale Injection Operations used to inject tracers or other additives to remediate contaminant plumes located within a land surface area not to exceed 10,000 square feet;
- (3) Pilot Tests conducted to evaluate the technical feasibility of a remediation strategy in order to develop a full scale remediation plan for future implementation, if the surface area of the injection zone wells are located within an area that does not exceed five percent of the land surface above the known extent of groundwater contamination. A pilot test may involve multiple injection wells, injection events, and injectants within the specified area. An individual permit shall be required to conduct

more than one pilot test on any separate groundwater contaminant plume;

- (4) Air Injection Wells used to inject ambient air to enhance in-situ treatment of groundwater and that meet the following requirements:

- (A) The air to be injected shall not exceed the ambient air quality standards set forth in 15A NCAC 02D .0400 and shall not contain petroleum or any other constituent that would cause a violation of groundwater standards specified in Subchapter 02L; and
- (B) Injection wells of this type shall be constructed in accordance with the well construction standards applicable to monitoring wells specified in Rule .0108 of this Subchapter.

- (5) In-situ thermal (IST) well systems shall meet the following requirements:

- (A) Any IST systems used shall not contain petroleum or any other constituent that would cause a violation of groundwater standards specified in Subchapter 02L; and
- (B) Injection wells of this type shall be constructed in accordance with the well construction standards applicable to monitoring wells specified in Rule .0108 of this Subchapter.

(d) Notification for Groundwater Remediation Wells described in Subparagraphs (c)(1) through (c)(3), and (c)(5) of this Rule shall be submitted to the Director two weeks prior to injection made using one form per facility supplied by the Director. Such notification shall include the following:

- (1) the name and contact information of the well owner;
- (2) the name and contact information of the person who can answer technical questions about the proposed injection system, if different from the well owner;
- (3) geographic coordinates of the injection well or well field;
- (4) maps of the injection zone indicating the known extent of contamination such as:
 - (A) contaminant plume maps with isoconcentration lines that show the horizontal extent of the contaminant plume in soil and groundwater, existing and proposed monitoring wells, and existing and proposed injection wells; and
 - (B) cross-sections to the known or projected depth of contamination that show the horizontal and vertical extent of the contaminant plume in soil and groundwater, changes in lithology, existing and proposed monitoring wells, and existing and proposed injection wells;

- (5) the purpose, scope, and goals of the proposed injection activity;
 - (6) the name, volume, concentration, and Material Safety Data Sheet of each injectant;
 - (7) a schedule of injection well construction and injection activities;
 - (8) the plans and specifications of each injection well or well system, which include:
 - (A) the number and depth of injection wells;
 - (B) information on whether the injection wells are existing or proposed;
 - (C) the well contractor name and certification number; and
 - (D) information on whether the injection wells are permanent wells, "direct push" temporary injection wells, or are subsurface distribution systems; and
 - (9) a description of a monitoring plan capable of determining if violations of groundwater quality standards specified in Subchapter 02L result from the injection activity.
- (e) Notification for Air Injection Wells described in Subparagraph (c)(4) of this Rule shall be submitted to the Director two weeks prior to injection on forms supplied by the Director. Such notification shall include the following:
- (1) the facility name, address, and location indicated by either:
 - (A) the latitude and longitude with reference datum, position accuracy, and method of collection; or
 - (B) a facility site map with property boundaries;
 - (2) the name, telephone number, and mailing address of the person responsible for installation or operation of the wells;
 - (3) the ownership of facility as a private individual or organization or a federal, State, county, or other public entity;
 - (4) the number of injection wells and their construction details; and
 - (5) the operating status as proposed, active, inactive, temporarily abandoned, or permanently abandoned.
- (f) Permit Applications for all Groundwater Remediation Wells not Permitted by Rule. In addition to the permit requirements set forth in Rule .0211 of this Section, an application for all groundwater remediation wells not permitted by rule shall be submitted in duplicate to the Director made using one form per facility furnished by the Director and shall include the following:
- (1) Site Description and Incident Information. The site description and incident information shall include the following:
 - (A) the name of the well owner or person otherwise responsible for the installation or operation of injection wells, mailing address, telephone number, and whether the owner is a federal, State, private, public, or other entity;
 - (B) the name of the property owner, if different from the well owner, physical address, mailing address, and telephone number;
 - (C) the name, mailing address, telephone number, geographic coordinates of the facility for which the application is submitted, a brief description of the nature of the business, and the status of the facility such as closed, still operating, or under construction;
 - (D) a description of the contamination incident including the source, type, cause, and release dates of the contamination; a list of all contaminants in the affected soil or groundwater; the presence and thickness of free product; and the maximum contaminant concentrations detected in the affected soil and groundwater;
 - (E) the State agency responsible for management of the contamination incident, including the incident tracking number, and the incident manager's name and telephone number; and
 - (F) a list of all permits issued for the facility or contamination incident, including Hazardous Waste Management program permits or approval under the Resource Conservation and Recovery Act (RCRA), waste disposal permits issued in accordance with G.S. 143-215.1, Sewage Treatment and Disposal Permits issued in accordance with G.S. 130A, and any other environmental permits required by State or federal law.
 - (2) Soils Evaluation (For Systems Treating On-Site Contaminated Groundwater Only). For systems with proposed discharge within seven feet of land surface and above the seasonal high water table, a soil evaluation of the disposal site shall be provided to the Division by the applicant. If required by G.S. 89F, a soil scientist shall submit this evaluation. If this evaluation is submitted, it shall include the following information:
 [Note: The North Carolina Board for Licensing of Soil Scientists has determined, via letter dated December 1, 2005, that preparation of soils reports pursuant to this Paragraph constitutes practicing soil science under G.S. 89F.]

- (A) Field description of soil profile. Based on examinations of excavation pits or auger borings, the following parameters shall be described by individual horizons to a depth of seven feet below land surface or to bedrock: thickness of the horizon; texture; color and other diagnostic features; structure; internal drainage; depth, thickness, and type of restrictive horizons; pH; cation exchange capacity; and presence or absence of evidence of any seasonal high water table. Applicants shall dig pits when necessary for evaluation of the soils at the site.
- (B) Recommendations concerning annual and instantaneous loading rates of liquids, solids, other wastewater constituents, and amendments. Annual hydraulic loading rates shall be based on in-situ measurement of saturated hydraulic conductivity in the most restrictive horizon.
- (3) Injection Zone Determination. The applicant shall specify the horizontal and vertical portion of the injection zone within which the proposed injection activity shall occur based on the hydraulic properties of that portion of the injection zone specified. No violation of groundwater quality standards specified in Subchapter 02L resulting from the injection shall occur outside the specified portion of the injection zone as detected by a monitoring plan approved by the Division. For systems treating on-site contaminated groundwater, computer modeling or predictive calculations based on site-specific conditions shall be provided to demonstrate that operation of the system shall not cause or contribute to the migration of contaminants into previously uncontaminated areas. This prescribed injection zone shall replace the compliance boundary as defined in 15A NCAC 2L .0107.
- (4) A hydrogeologic evaluation of the disposal site to a depth that includes the injection zone determined in accordance with Subparagraph (3) of this Paragraph. If required by G.S. 89E, G.S. 89C, or G.S. 89F, a licensed geologist, professional engineer, or licensed soil scientist shall prepare a hydrogeologic evaluation of the facility. The hydrogeologic evaluation shall include all of the following:
 - (A) the regional and local geology and hydrogeology;
 - (B) the changes in lithology underlying the facility;
 - (C) the depth to bedrock;
 - (D) the depth to the mean seasonal high water table;
 - (E) the hydraulic conductivity, transmissivity, and storativity of the injection zone based on tests of site-specific material, including a description of the tests used to determine these parameters;
 - (F) the rate and direction of groundwater flow as determined by predictive calculations or computer modeling; and
 - (G) the lithostratigraphic and hydrostratigraphic logs of test and injection wells.
- (5) Area of Review. The area of review shall be calculated using the procedure for determining the zone of endangering influence specified in 40 CFR 146.6(a). The applicant shall identify all wells within the area of review that penetrate the injection or confining zone and repair or permanently abandon all wells that are improperly constructed or abandoned.
- (6) Injectant Information. The applicant shall submit the following information for each proposed injectant:
 - (A) the injectant name and manufacturer, concentration at the point of injection, and percentage if present in a mixture with other injectants;
 - (B) the chemical, physical, biological, or radiological characteristics necessary to evaluate the potential to adversely affect human health or groundwater quality;
 - (C) the source of fluids used to dilute, carry, or otherwise distribute the injectant throughout the injection zone as determined in accordance with Subparagraph (f)(3) of this Rule. If any well within the area of review of the injection facility is to be used as the fluid source, then the following information shall be submitted: location or ID number, depth of source, formation, rock or sediment type, and a chemical analysis of the water from the source well, including analyses for all contaminants suspected or historically recognized in soil or groundwater on the site;
 - (D) a description of the rationale for selecting the injectants and concentrations proposed for injection, including an explanation or calculations of how the proposed injectant volumes and concentrations were determined;

- (E) a description of the reactions between the injectants and the contaminants present, including specific breakdown products or intermediate compounds that may be formed by the injection;
 - (F) a summary of results if modeling or testing was performed to investigate the injectant's potential or susceptibility for biological, chemical, or physical change in the subsurface; and
 - (G) an evaluation concerning the development of byproducts of the injection process, including increases in the concentrations of naturally occurring substances. Such an evaluation shall include the identification of the specific byproducts of the injection process, projected concentrations of byproducts, and areas of migration as determined through modeling or other predictive calculations.
- (7) Injection Procedure. The applicant shall submit a description of the proposed injection procedure that includes the following:
- (A) the proposed average and maximum daily rate and quantity of injectant;
 - (B) the average maximum injection pressure expressed in units of pounds per square inch (psi); and
 - (C) the total or estimated total volume to be injected.
- (8) Engineering Planning Documents (For Systems Treating On-Site Contaminated Groundwater Only). If required by G.S. 89C, a professional engineer shall prepare these documents. The following documents shall be provided to the Division by the applicant:
- [Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that preparation of engineering design documents pursuant to this Paragraph constitutes practicing engineering under G.S. 89C.]
- (A) engineering plans for the entire system, including treatment, storage, application, and disposal facilities and equipment, except those previously permitted unless they are directly tied into the new units or are critical to the understanding of the complete process;
 - (B) specifications describing materials to be used, methods of construction, and means for ensuring quality and integrity of the entire groundwater remediation system;
- (C) plans that include construction details of recovery, injection, and monitoring wells and infiltration galleries;
 - (D) operating plans that include:
 - (i) the operating schedule including any periodic shut-down times;
 - (ii) required maintenance activities for all structural and mechanical elements;
 - (iii) a list of all consumable and waste materials with their intended source and disposal locations;
 - (iv) restrictions on access to the site and equipment; and
 - (v) provisions to ensure the quality of the treated effluent and hydraulic control of the system at all times when any portion of the system ceases to function, such as standby power capability, complete system-off status, or duplicity of system components.
- (9) Fracturing Plan. If hydraulic or pneumatic fracturing is proposed, then the applicant shall submit a detailed description of the fracturing plan that includes the following:
- (A) Material Safety Data Sheets of fracturing media including information on any proppants used;
 - (B) a map of fracturing well locations indicating the known extent of groundwater contamination and all buildings, wells, septic systems, underground storage tanks, and underground utilities located within the area of review as described in Subparagraph (5) of this Paragraph;
 - (C) a demonstration that the fracturing process shall not result in the fracturing of any confining units or otherwise cause or contribute to the migration of contamination into uncontaminated areas, or otherwise cause damage to buildings, wells, septic systems, underground storage tanks, and underground utilities;
 - (D) the injection rate and volume;
 - (E) the orientation of bedding planes, joints, and fracture sets of the fracture zone;
 - (F) a performance monitoring plan for determining the fracture well radius of influence; and
 - (G) if conducted, the results of geophysical testing or a pilot

- demonstration of fracture behavior conducted in an uncontaminated area of the site.
- (10) Injection well construction details including:
- (A) the number and depth of injection wells;
 - (B) the number and depth of borings if using multi-level or "nested" well systems;
 - (C) information on whether the injection wells are existing or proposed;
 - (D) the depth and type of casing;
 - (E) the depth and type of screen material;
 - (F) the depth and type of grout;
 - (G) information on whether the injection wells are permanent or temporary "direct push" points; and
 - (H) the plans and specifications of the surface and subsurface construction details of each injection well or well system.
- (11) Monitoring Wells. Monitoring wells shall be of sufficient quantity and location to detect any movement of injection fluids, injection process byproducts, or formation fluids outside the injection zone as determined by the applicant in accordance with Subparagraph (f)(3) of this Paragraph. The monitoring schedule shall be consistent with the proposed injection schedule, the pace of the anticipated reactions, and the rate of transport of the injectants and contaminants. The applicant shall submit a monitoring plan that includes the following:
- (A) the target contaminants and the secondary or intermediate contaminants that may result from the injection;
 - (B) the other parameters that may serve to indicate the progress of the intended reactions;
 - (C) a list of existing and proposed monitoring wells to be used; and
 - (D) a sampling schedule for monitoring the proposed injection.
- (12) Well Data Tabulation. A tabulation of data on all existing or abandoned wells within the area of review of the injection wells that penetrate the proposed injection zone, including monitoring wells and wells proposed for use as injection wells. Such data shall include a description of each well's type, depth, record of abandonment or completion, and any additional information the Director may require to ensure compliance with G.S. 87-84.
- (13) Maps and Cross-Sections. Scaled, site-specific site plans or maps depicting the location, orientation, and relationship of facility components including the following:
- (A) an area map based on the most recent USGS 7.5' topographic map of the area, at a scale of 1:24,000 and showing the location of the proposed injection site;
 - (B) topographic contour intervals showing all facility related structures, property boundaries, streams, springs, lakes, ponds, and other surface drainage features;
 - (C) all existing or abandoned wells within the area of review of the injection wells listed in the tabulation required in Subparagraph (12) of this Paragraph that penetrate the proposed injection zone, including water supply wells, monitoring wells, and wells proposed for use as injection wells;
 - (D) potentiometric surface maps that show the direction of groundwater movement and existing and proposed wells;
 - (E) contaminant plume maps with isoconcentration lines that show the horizontal extent of the contaminant plume in soil and groundwater and existing and proposed wells;
 - (F) cross-sections to the known or projected depth of contamination that show the horizontal and vertical extent of the contaminant plume in soil and groundwater, major changes in lithology, and existing and proposed wells; and
 - (G) any existing sources of potential or known groundwater contamination, including waste storage, treatment, or disposal systems, within the area of review of the injection well or well system.
- (14) Any other information necessary for the Department to ensure compliance with G.S. 87-84.
- (g) Injection Volumes. The Director may establish maximum injection volumes and pressures necessary to ensure compliance with G.S. 87-84 and that:
- (1) fractures are not initiated in the confining zone of the injection zone determined in accordance with Subparagraph (f)(3) of this Rule;
 - (2) injected fluids do not migrate outside the injection zone or area; and
 - (3) injected fluids and fractures do not cause or contribute to the migration of contamination into uncontaminated areas.
- (h) Well Construction.
- (1) Wells shall not be located where:
 - (A) surface water or runoff will accumulate around the well due to depressions, drainage ways, or other

- landscapes that will divert water to the well;
 - (B) a person would be required to enter confined spaces to perform sampling and inspection activities; and
 - (C) injectants or formation fluids would migrate outside the approved injection zone as determined by the applicant in accordance with Subparagraph (f)(3) of this Rule.
- (2) Wells used for hydraulic or pneumatic fracturing shall be located within the boundary of known groundwater contamination but no closer than 75 feet to this boundary unless it can be demonstrated that a lesser separation distance will not adversely affect human health or cause a violation of a groundwater quality standard as specified in Subchapter 02L, such as through the use of directional fracturing.
- (3) The methods and materials used in construction shall not threaten the physical and mechanical integrity of the well during its lifetime.
- (4) The well shall be constructed in a manner that surface water or contaminants from the land surface cannot migrate along the borehole annulus either during or after construction.
- (5) The borehole shall not penetrate to a depth greater than the depth at which injection will occur unless the purpose of the borehole is the investigation, of the geophysical and geochemical characteristics of an aquifer. Following completion of the investigation the borehole beneath the zone of injection shall be grouted completely to prevent the migration of any contaminants.
- (6) For "direct-push" temporary injection wells constructed without permanent or temporary casing, injection and well abandonment activities shall be conducted within the same working day as when the borehole is constructed.
- (7) Drilling fluids shall contain only potable water and may be comprised of one or more of the following:
 - (A) the formation material encountered during drilling; and
 - (B) materials manufactured specifically for the purpose of borehole conditioning or well construction.
- (8) Only allowable grout listed under Rule .0107 of this Subchapter shall be used; however, bentonite grout shall not be used:
 - (A) to seal zones of water with a chloride concentration of 1,500 milligrams per liter or greater as determined by tests conducted at the time of construction; or
 - (B) in areas of the State subject to saltwater intrusion that may expose the grout to water with a chloride concentration of 1,500 milligrams per liter or greater at any time during the life of the well.
- (9) The annular space between the borehole and casing shall be grouted:
 - (A) with a grout that is non-reactive with the casing or screen materials, the formation, or the injectant;
 - (B) from the top of the gravel pack to land surface and in a way that there is no interconnection of aquifers or zones having differences in water quality that would result in the degradation of the groundwater quality of any aquifer or zone; and
 - (C) so that the grout extends outward from the casing wall to a thickness equal to either one-third of the diameter of the outside dimension of the casing or two inches, whichever is greater. In no case shall a well be required to have an annular grout seal thickness greater than four inches.
- (10) Grout shall be emplaced around the casing by one of the following methods:
 - (A) Pressure. Grout shall be pumped or forced under pressure through the bottom of the casing until it fills the annular space around the casing and overflows at the surface;
 - (B) Pumping. Grout shall be pumped into place through a hose or pipe extended to the bottom of the annular space that can be raised as the grout is applied. The grout hose or pipe shall remain submerged in grout during the entire application; or
 - (C) Other. Grout may be emplaced in the annular space by gravity flow in a way to ensure complete filling of the space. Gravity flow shall not be used if water or any visible obstruction is present in the annular space at the time of grouting.
- (11) All grout mixtures shall be prepared prior to emplacement per the manufacturer's directions with the exception that bentonite chips or pellets may be emplaced by gravity flow if water is present or otherwise hydrated in place.
- (12) If an outer casing is installed, it shall be grouted by either the pumping or pressure method.
- (13) The well shall be grouted within seven days after the casing is set or before the drilling equipment leaves the site, whichever occurs first. If the well penetrates any water-bearing zone that contains contaminated or saline water, the well shall be grouted within one day after the casing is set.

- (14) No additives that will accelerate the process of hydration shall be used in grout for thermoplastic well casing.
- (15) A casing shall be installed that extends from at least 12 inches above land surface to the top of the injection zone.
- (16) Wells with casing extending less than 12 inches above land surface and wells without casing shall be approved by the Director only when one of the following conditions is met:
 - (A) site specific conditions directly related to business activities, such as vehicle traffic, would endanger the physical integrity of the well; or
 - (B) it is not operationally feasible for the well head to be completed 12 inches above land surface due to the engineering design requirements of the system.
- (17) Multi-screened wells shall not connect aquifers or zones having differences in water quality that would result in a degradation of the groundwater quality of any aquifer or zone.
- (18) Prior to removing the equipment from the site, the top of the casing shall be sealed with a water-tight cap or well seal, as defined in G.S. 87-85, to preclude contaminants from entering the well.
- (19) Packing materials for gravel and sand packed wells shall be:
 - (A) composed of quartz, granite, or other hard, non-reactive rock material;
 - (B) of uniform size, water-washed and free from clay, silt, and toxic materials;
 - (C) disinfected prior to subsurface emplacement;
 - (D) emplaced such that it will not connect aquifers or zones having differences in water quality that would result in the deterioration of the water quality in any aquifer or zone; and
 - (E) evenly distributed around the screen and shall extend to a depth at least one foot above the top of the screen. A one foot thick or greater seal comprised of bentonite clay, shall be emplaced directly above and in contact with the packing material.
- (20) All permanent injection wells shall have a well identification plate that meets the criteria specified in Rule .0107 of this Subchapter.
- (21) A hose bibb, sampling tap, or other collection equipment shall be installed on the line entering the injection well such that a sample of the injectant can be obtained prior to its entering the injection well.
- (22) If applicable, all piping, wiring, and vents shall enter the well through the top of the casing unless it is based on a design demonstrated to preclude surficial contaminants from entering the well.
- (23) The well head shall be completed in a manner to preclude surficial contaminants from entering the well, and well head protection shall include:
 - (A) an accessible external sanitary seal installed around the casing and grouting; and
 - (B) a water-tight cap or well seal compatible with the casing and installed so that it cannot be removed without the use of hand or power tools.
- (i) Mechanical Integrity. All permanent injection wells shall be tested for mechanical integrity, which shall be conducted in accordance with Rule .0207 of this Section.
- (j) Operation and Maintenance.
 - (1) Unless permitted by this Rule, pressure at the well head shall be limited to a maximum that will ensure that the pressure in the injection zone does not initiate new fractures or propagate existing fractures in the injection zone, initiate fractures in the confining zone, or cause the migration of injected or formation fluids outside the injection zone or area.
 - (2) Injection between the outermost casing and the well borehole is prohibited.
 - (3) The well owner shall monitor the operating processes at the well head and shall protect the well head against damage during construction and use.
- (k) Monitoring.
 - (1) Monitoring of the injection well shall be required by the Director to protect groundwaters of the State.
 - (A) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
 - (B) Analysis of the physical, chemical, biological, or radiological characteristics of the injectant shall be made monthly or more frequently, as approved by the Director, in order to provide representative data for characterization of the injectant.
 - (C) Monitoring of injection pressure, flow rate, and cumulative volume shall occur according to a schedule determined necessary by the Director.
 - (D) Monitoring wells associated with the injection site shall be monitored quarterly or on a schedule determined by the Director to detect any migration of injected fluids from the injection zone.

- (2) In determining the type, density, frequency, and scope of monitoring, the Director shall consider the following:
 - (A) physical and chemical characteristics of the injection zone;
 - (B) physical and chemical characteristics of the injected fluids;
 - (C) volume and rate of discharge of the injected fluids;
 - (D) compatibility of the injected fluids with the formation fluids;
 - (E) the number, type, and location of all wells, mines, surface bodies of water, and structures within the area of review;
 - (F) proposed injection procedures;
 - (G) expected changes in pressure, formation fluid displacement, and direction of movement of injected fluid;
 - (H) proposals of corrective action to be taken in the event that a failure in any phase of injection operations renders the groundwaters unsuitable for their best intended usage as defined 15A NCAC 02L; and
 - (I) the life expectancy of the injection operations.
- (3) Monitoring wells completed in the injection zone and any of those zones adjacent to the injection zone may be affected by the injection operations. If affected, the Director may require additional monitor wells located to detect any movement of injection fluids, injection process byproducts, or formation fluids outside the injection zone as determined by the applicant in accordance with Subparagraph (f)(3) of this Rule. If the operation is affected by subsidence or catastrophic collapse, any other required monitoring wells shall be located so that they will not be physically affected and shall be of an adequate number to detect movement of injected fluids, process byproducts, or formation fluids outside the injection zone or area. In determining the number, location and spacing of monitoring wells, the following criteria shall be considered by the Director:
 - (A) the population relying on the groundwater resource affected, or potentially affected, by the injection operation;
 - (B) the proximity of the injection operation to points of withdrawal of groundwater;
 - (C) the local geology and hydrology;
 - (D) the operating pressures;
 - (E) the chemical characteristics and volume of the injected fluid, formation water, and process byproducts; and
 - (F) the number of existing injection wells.
- (l) Reporting.
 - (1) For all injection wells, the well owner shall be responsible for submitting to the Director on forms furnished by the Director the following:
 - (A) a record of the construction (form GW-1), abandonment (form GW-30), or repairs of the injection well within 30 days of completion of the specified activities; and
 - (B) the Injection Event Record within 30 days of completing each injection.
 - (2) For injection wells requiring an individual permit, the following shall apply:
 - (A) The well owner shall be responsible for submitting to the Director hydraulic or pneumatic fracturing performance monitoring results;
 - (B) All sampling results shall be reported to the Division annually or at another frequency determined by the Director based on the reaction rates, injection rates, likelihood of secondary impacts, and site-specific hydrogeologic information;
 - (C) A final project evaluation report shall be submitted within nine months after completing all injection-related activities associated with the permit or submit a project interim evaluation before submitting a renewal application for the permit. This document shall assess the injection projects findings in a written summary. The final project evaluation shall also contain monitoring well sampling data, contaminant plume maps, and potentiometric surface maps; and
 - (D) For groundwater remediation injection permits, each monitoring report shall include a summary identifying any detectable contaminant degradation breakdown products, and a table with historical laboratory analytical results. The table shall indicate any exceedances of groundwater standards per 15A NCAC 02L .0202, and shall distinguish data collected prior to injection from data collected after injection.
- (m) Application and Annual Fees (For Systems Treating On-Site Contaminated Groundwater Only)
 - (1) Application Fee. For every application for a new or major modification of a permit under this Rule, a nonrefundable application processing fee in the amount provided in G.S. 143-215.3D shall be submitted to the Division by the applicant at the time of application.

- Modification fees shall be based on the annual fee for the facility.
- (2) Annual Fees. An annual fee for administering and compliance monitoring shall be charged in each year of the term of every renewable permit per the schedule in G.S. 143-215.3D(a). Annual fees shall be paid for any facility operating on an expired permit that has not been rescinded or revoked by the Division. Permittees shall be billed annually by the Division. A change in the facility, which changes the annual fee, shall result in the revised annual fee being billed effective with the next anniversary date.
- (3) Failure to pay an annual fee within 30 days after being billed may be cause for the Division to revoke the permit upon 60 days notice.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0226 SALINITY BARRIER WELLS

Salinity Barrier Wells, which inject uncontaminated water into an aquifer to prevent the intrusion of salt water into the fresh water, shall meet the requirements of Rule .0219 of this Section, except that the Director may impose additional requirements to ensure compliance with G.S. 87-84.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0227 STORMWATER DRAINAGE WELLS SYSTEMS

(a) Stormwater Drainage Wells Systems means well systems that receive the flow of water that occurs during rainfall or a snowmelt event.

(b) The following Stormwater Drainage Wells Systems shall be permitted by rule pursuant to Rule .0217 of this Section:

- (1) systems designed in accordance with stormwater controls required by federal laws and regulations, State statutes and rules, or local controls; and
- (2) infiltration systems, which receive stormwater from roof tops.

(c) Nothing in this Rule shall be construed as to allow untreated stormwater to be injected directly into any aquifer or to otherwise result in the violation of any groundwater quality standard as specified in 15A NCAC 02L.

(d) Reporting. Within 30 days of a change of status of the well drainage system, the owner or operator shall submit the following information to the Division:

- (1) the facility name, address, and location indicated by either:

- (A) latitude and longitude with reference datum, position accuracy, and method of collection; or
 - (B) a facility site map indicating property boundaries;
- (2) the name, telephone number, and mailing address of owner or operator;
 - (3) the ownership of facility as a private individual or organization, or a federal, State, county, or other public entity;
 - (4) the number of injection wells drainage and collection systems; and
 - (5) the well injection system status as proposed, active, inactive, temporarily abandoned, or permanently abandoned.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0228 SUBSIDENCE CONTROL WELLS

Subsidence Control Wells, which are used to inject uncontaminated fluids to reduce or eliminate subsidence associated with overdraft of fresh water or other activities not related to oil or natural gas production, shall meet the requirements of Rule .0219 of this Section, except that the Director may impose additional requirements to ensure compliance with G.S. 87-84.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0229 TRACER WELLS

Tracer Wells, which are used to inject substances for determining hydrogeologic properties of aquifers, shall meet the requirements of Rule .0225 of this Section, except that the Director may impose additional requirements to ensure compliance with G.S. 87-84.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0230 OTHER WELLS

Other Wells shall meet the requirements of that injection well type described in Rule .0209(5)(b) of this Section that most closely resembles the proposed Other Well's hydrogeologic complexity and potential to adversely affect groundwater quality. The Director may impose additional requirements to ensure compliance with G.S. 87-84.

History Note: Authority G.S. 87-87; 87-88; 87-90; 87-94; 87-95; 143-211; 143-214.2(b); 143-215.1A; 143-215.3(a)(1); 143-215.3(c);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.

15A NCAC 02C .0240 ABANDONMENT AND CHANGE-OF-STATUS OF INJECTION WELLS AND SYSTEMS

(a) Injection wells and injection well systems shall be abandoned by the well owner in accordance with one of the following procedures or other alternatives approved by the Director that ensures compliance with G.S. 87-84:

- (1) Wells other than closed-loop geothermal wells shall be temporarily or permanently abandoned as required by Rule .0113 of this Subchapter.
- (2) Closed-loop geothermal wells that are temporarily abandoned shall be maintained so that they are not a source or channel of contamination during the period of abandonment.
- (3) Closed-loop geothermal wells shall be permanently abandoned as follows:
 - (A) all casing, tubing, or piping and associated materials shall be removed prior to abandonment if that removal will not cause or contribute to contamination of groundwater;
 - (B) the boring shall be filled from bottom to top with grout through a hose or pipe that extends to the bottom of the well and is raised as the well is filled;
 - (C) for tubing with an inner diameter of one-half inch or greater, the entire vertical length of the inner tubing shall be grouted;
 - (D) for tubing with an inner diameter less than one-half inch that cannot feasibly be grouted, the tubing shall be refilled with potable water and capped or sealed at a depth not less than two feet below land surface; and
 - (E) any protective or surface casing not grouted in accordance with the requirements set forth in this Section shall be removed and the well shall be grouted in accordance with the requirements set forth in this Section.
- (4) If a subsurface cavity has been created as a result of the injection operations, the well shall be abandoned in a manner that will prevent the movement of fluids into or between aquifers and in accordance with the terms and conditions of the permit.

(b) An injection well that acts as a source or channel of contamination shall be brought into compliance with the standards and criteria of these Rules, repaired, or permanently abandoned. Repair or permanent abandonment shall be completed within 15 days of the discovery of the noncompliance.

(c) Exploratory or test wells, constructed for the purposes of obtaining information regarding an injection well site, shall be permanently abandoned in accordance with Rule .0113 of this Subchapter within two days after drilling or two days after testing is complete, whichever is later. However, if a test well is being converted to a permanent injection well, this conversion shall be completed within 30 days after drilling.

(d) An injection well shall be permanently abandoned by the drilling contractor before removing his or her equipment from the site if the well casing has not been installed or has been removed from the well bore.

(e) The well owner shall be responsible for permanent abandonment of a well except that:

- (1) the well contractor shall be responsible for well abandonment if abandonment is required because the well contractor improperly locates, constructs, repairs or completes the well;
- (2) the person who installs, repairs or removes the well pump shall be responsible for well abandonment if that abandonment is required because of improper well pump installation, repair or removal; or
- (3) the well contractor (or individual) who conducts a test boring shall be responsible for its abandonment at the time the test boring is completed.

(f) Groundwater remediation systems that include infiltration galleries shall be abandoned as follows:

- (1) 30 days prior to initiation of closure of a groundwater remediation system, the permittee shall submit the following documentation to the Division:
 - (A) the reasons for closure;
 - (B) a letter from the oversight agency authorizing closure of the system; and
 - (C) a description of the proposed closure procedure.
- (2) The infiltration gallery shall be closed such that it:
 - (A) will be rendered permanently unusable for the disposal of fluids; and
 - (B) will not serve as a source or channel of contamination.
- (3) Within 30 days following upon completion of the closure, the permittee shall submit the following documentation to the Division:
 - (A) a description of the completed closure procedure;
 - (B) the dates of all actions taken for the procedure; and
 - (C) a written certification a by North Carolina licensed engineer or geologist that the closure has been accomplished, and that the information submitted is complete, factual, and accurate.

History Note: Authority G.S. 87-87; 87-88; 143-211; 143-215.1A; 143-215.3(a)(1); 143-215.3(c);

*Eff. May 1, 2012;
Readopted Eff. September 1, 2019.*

15A NCAC 02C .0241 VARIANCE

(a) The Secretary, through the Director, may grant a variance from any construction or operation standards under the rules of this Section. Any request for a variance shall be made using the form set forth in Rule .0118(b) of the Subchapter by the person responsible for construction of the well for which the variance is sought pursuant to Rule .0118(b) of this Subchapter. The Director shall grant the variance if:

- (1) the use of the well will not endanger human health and welfare or the groundwater; and
- (2) construction or operation in accordance with the standards is not technically feasible or the proposed construction provides equal or better protection of the groundwater.

(b) The Secretary, through the Director, may require the variance applicant to submit such information necessary to make a decision to grant or deny the variance. The Director may impose such conditions on a variance or the use of a well for which a variance is granted and is necessary to ensure compliance with G.S. 87-84. The facts supporting any variance under this Rule shall be in writing and made part of the variance.

(c) The Secretary, through the Director, shall respond in writing to a request for a variance within 30 days after receipt of the variance request.

(d) For variances requested as a part of a permit application, the Director may include approval as a permit condition.

(e) A variance applicant who is dissatisfied with the decision of the Director may commence a contested case by filing a petition under G.S. 150B-23 within 60 days after receipt of the decision.

*History Note: Authority G.S. 87-87(4); 87-88; 143-215.1A; 143-215.3(a)(4);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.*

15A NCAC 02C .0242 DELEGATION

(a) The Secretary is delegated the authority to grant permission for well construction under G.S. 87-87.

(b) The Secretary is delegated the authority to give notices and sign orders for violations under G.S. 87-91.

(c) The Secretary may grant a variance from any construction standard, or the approval of alternate construction methods or materials, as specified under the rules of this Section.

*History Note: Authority G.S. 87-87(4); 143-215.1A; 143-215.3(a)(1); 143-215.3(a)(4);
Eff. May 1, 2012;
Readopted Eff. September 1, 2019.*

15A NCAC 02D .0540 PARTICULATES FROM FUGITIVE DUST EMISSION SOURCES

(a) For the purpose of this Rule the following definitions apply:

- (1) "Excess fugitive dust emissions" means:
 - (A) fugitive dust is visible extending beyond the facility's property line; or

(B) upon inspection of settled dust on adjacent property, the Division finds that the dust came from the adjacent facility.

(2) "Fugitive dust emissions" means particulate matter that does not pass through a process stack or vent and that is generated within plant property boundaries from activities such as unloading and loading areas, process areas, stockpiles, stockpile working, plant parking lots, and plant roads, including access roads and haul roads.

(3) "Production of crops" means:

- (A) cultivation of land for crop planting;
- (B) crop irrigation;
- (C) harvesting;
- (D) on site curing, storage, or preparation of crops; or
- (E) protecting crops from damage or disease conducted according to practices acceptable to the North Carolina Department of Agriculture and Consumer Services.

(4) "Public parking" means an area dedicated to or maintained for the parking of vehicles by the general public.

(5) "Public road" means any road that is part of the State highway system or any road, street, or right-of-way dedicated or maintained for public use.

(6) "Substantive complaints" means complaints that are verified by the Division with physical evidence of excess fugitive dust emissions.

(b) This Rule does not apply to:

- (1) abrasive blasting covered by 15A NCAC 02D .0541;
- (2) cotton ginning operations covered by 15A NCAC 02D .0542;
- (3) non-production military base operations;
- (4) land disturbing activities that do not require a permit pursuant to 15A NCAC 02Q or are not subject to a requirement pursuant to 15A NCAC 02D, such as clearing, grading, or digging, and related activities such as hauling fill and cut material, building material, or equipment; or
- (5) public roads, public parking, timber harvesting, or production of crops.

(c) The owner or operator of a facility required to have a permit pursuant to 15A NCAC 02Q or a source subject to a requirement pursuant to 15A NCAC 02D shall not cause or allow fugitive dust emissions to cause or contribute to substantive complaints or visible emissions in excess of that allowed pursuant to Paragraph (e) of this Rule.

(d) If fugitive dust emissions from a facility required to comply with this Rule cause or contribute to substantive complaints, the owner or operator of the facility shall:

- (1) within 30 days upon receipt of written notification from the Director of a second

substantive complaint in a 12-month period, submit to the Director a written report that includes the identification of the probable sources of the fugitive dust emissions causing complaints and what measures can be made to abate the fugitive emissions;

- (2) within 60 days of the initial report submitted pursuant to Subparagraph (1) of this Paragraph, submit to the Director a fugitive dust control plan as described in Paragraph (f) of this Rule; and
- (3) within 30 days after the Director approves the plan pursuant to Paragraph (g) of this Rule, be in compliance with the plan.

(e) The Director shall require that the owner or operator of a facility covered by Paragraph (c) of this Rule develop and submit a fugitive dust control plan as described in Paragraph (f) of this Rule if:

- (1) ambient air quality measurements or dispersion modeling as provided in 15A NCAC 02D .1106(e) show that the excess fugitive dust emissions cause the ambient air quality standard for particulates in 15A NCAC 02D .0400 to be exceeded; or
- (2) the Division observes excess fugitive dust emissions from the facility beyond the property boundaries for six minutes in any one hour using Reference Method 22 in 40 CFR 60, Appendix A.

(f) The fugitive dust control plan shall:

- (1) identify the sources of fugitive dust emissions within the facility;
- (2) describe how fugitive dust will be controlled from each identified source;
- (3) contain a schedule by which the plan will be implemented;
- (4) describe how the plan will be implemented, including training of facility personnel; and
- (5) propose any methods that will be used to verify compliance with the plan.

(g) The Director shall approve the plan if he or she finds that:

- (1) the plan contains all required elements in Paragraph (f) of this Rule;
- (2) the proposed schedule contained in the plan will reduce fugitive dust emissions;
- (3) the methods used to control fugitive dust emissions prevent fugitive dust emissions from causing or contributing to a violation of the ambient air quality standards for particulates; and
- (4) the proposed compliance verification methods verify compliance with the fugitive dust control plan.

If the Director finds that the proposed plan does not meet the requirements of this Paragraph, he or she shall notify the owner or operator of the facility of any deficiencies in the proposed plan. The owner or operator shall have 30 days after receiving written notification from the Director to correct the deficiencies or submit

a schedule describing actions to be taken and the time by which they will be implemented.

(h) If after a plan has been implemented, the Director finds that the plan fails to control excess fugitive dust emissions, he or she shall require the owner or operator of the facility to correct the deficiencies in the plan. Within 90 days after receiving written notification from the Director identifying the deficiency, the owner or operator of the facility shall submit a revision to his or her plan to correct the deficiencies.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.108(c)(7);

Eff. July 1, 1998;

Amended Eff. July 10, 2010; August 1, 2007;

Readopted Eff. September 1, 2019.

15A NCAC 02D .1801 DEFINITIONS

For the purpose of this Section, the following definitions apply:

- (1) "Animal operation" means animal operation as defined in G.S. 143-215.10B.
- (2) "Child care center" means child care centers as defined in G.S. 110-86 and licensed pursuant to G.S. 110, Article 7.
- (3) "Construction" means any physical change, including fabrication, erection, installation, replacement, demolition, excavation, or other modification, at any contiguous area in common control.
- (4) "Control technology" means economically feasible control devices installed to reduce objectionable odors from animal operations.
- (5) "Existing animal operation" means an animal operation that is in operation or commences construction on or before February 28, 1999.
- (6) "Historic properties" means historic properties acquired by the State pursuant to G.S. 121-9 or listed in the North Carolina Register of Historic Places pursuant to G.S. 121-4.1.
- (7) "Modified animal operation" means an animal operation that commences construction after February 28, 1999, to increase the steady state live weight that can be housed at that animal operation. Modified animal operation does not include renovating existing barns, relocating barns, or replacing existing lagoons or barns if the new barn or lagoon is no closer to the nearest property and if the new barn or lagoon does not increase the steady state live weight that can be housed at that animal operation.
- (8) "New animal operation" means an animal operation that commences construction after February 28, 1999.
- (9) "Objectionable odor" means any odor present in the ambient air that by itself, or in combination with other odors, is or may be harmful or injurious to human health or welfare, or may unreasonably interfere with the comfortable use and enjoyment of life or property. Odors are harmful or injurious to human health if they

tend to lessen human food and water intake, interfere with sleep, upset appetite, produce irritation of the upper respiratory tract, cause symptoms of nausea, or if their chemical or physical nature is, or may be, detrimental or dangerous to human health.

- (10) "Occupied residence" means occupied residence as defined in G.S. 106-802.
- (11) "State Parks" means the State Parks System as defined in G.S. 143B-135.44.
- (12) "Technologically feasible" means that an odor control device or a proposed solution to an odor problem has previously been demonstrated to accomplish its intended objective, and is generally accepted within the technical community. It is possible for technologically feasible solutions to have demonstrated their suitability on similar, but not identical, sources for which they are proposed to control.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(11);
Temporary Adoption Eff. April 27, 1999; March 1, 1999;
Eff. July 1, 2000;
Readopted Eff. September 1, 2019.*

15A NCAC 02D .1802 CONTROL OF ODORS FROM ANIMAL OPERATIONS USING LIQUID ANIMAL WASTE MANAGEMENT SYSTEMS

(a) Purpose. The purpose of this Rule is to control objectionable odors from animal operations beyond the boundaries of animal operations.

(b) Applicability. This Rule shall apply to all animal operations using liquid animal waste management systems.

(c) Required management practices. All animal operations shall be required to implement applicable management practices for the control of odors as follows:

- (1) the carcasses of dead animals shall be disposed in accordance with G.S. 106-403 and 02 NCAC 52C .0102. The Rule 02 NCAC 52C .0102 is hereby incorporated by reference and includes subsequent amendments or editions;
- (2) waste from animal wastewater application spray systems shall be applied in such a manner and pursuant to such conditions to prevent drift from the irrigation field of the wastewater spray beyond the boundary of the animal operation, except waste from application spray systems may be applied in an emergency to maintain safe lagoon freeboard if the owner or operator notifies the Department and resolves the emergency with the Department as written in the Swine Waste Operation General Permit;

- (3) animal wastewater application spray system intakes shall be located near the liquid surface of the animal wastewater lagoon;
- (4) ventilation fans shall be maintained according to the manufacturer's specifications; and
- (5) animal feed storage containers located outside of animal containment buildings shall be covered except when removing or adding feed. This Subparagraph shall not apply to the storage of silage or hay or to commodity boxes with roofs.

(d) Odor management plan (OMP) for existing animal operations for swine. Animal operations for swine that meet the criteria in the table in this Paragraph shall submit an odor management plan to the Director. The animal operation shall be required to submit its odor management plan only once. The odor management plan shall:

- (1) identify the name, location, and owner of the animal operation;
- (2) identify the name, title, address, and telephone number of the owner or operator filing the plan;
- (3) identify the sources of odor within the animal operation;
- (4) describe how odor will be controlled from:
 - (A) the animal houses;
 - (B) the animal wastewater lagoon, if used;
 - (C) the animal wastewater application lands, if used;
 - (D) waste conveyances and temporary accumulation points; and
 - (E) other possible sources of odor within the animal operation;
- (5) contain a diagram showing all structures and lagoons at the animal operation, forced air directions, and approximate distances to structures or groups of structures within 3,000 feet of the property line of the animal operation; an aerial photograph may be provided instead of a diagram provided the items required by this Subparagraph are shown;
- (6) for existing animal operations, contain a schedule not to exceed six months by which the plan will be implemented;
- (7) describe how the plan will be implemented, including training of personnel;
- (8) describe inspection and maintenance procedures;
- (9) describe methods of monitoring and recordkeeping to verify compliance with the plan; and
- (10) describe how odors are currently being controlled and how these odors will be controlled in the future.

100 pounds steady state live weight of swine		Distance in feet to the boundary of the nearest neighboring occupied property with an inhabitable structure, business, school, hospital, church, outdoor recreational facility, national park, State Park, historic property, or child care center
at least	but less than	
10,000	20,000	less than or equal to 3,000
20,000	40,000	less than or equal to 4,000
40,000		less than or equal to 5,000

For the purposes of this Rule, the distance shall be measured from the edge of the barn or lagoon, whichever is closer, to the boundary of the neighboring occupied property with an inhabitable structure, business, school, hospital, church, outdoor recreational facility, national park, State Park, historic property, or child care center. All animal operations for swine that are of the capacity in the table in this Paragraph shall submit either an odor management plan or documentation that no neighboring occupied property with an inhabitable structure, business, school, hospital, church, outdoor recreational facility, national park, State Park, historic property, or child care center is within the distances specified in the table. The Director may require existing animal operations for swine with a steady state live weight of swine between 100,000 to 1,000,000 pounds steady state live weight to submit an odor management plan if the Director determines pursuant to Paragraph (g) of this Rule that these animal operations cause or contribute to an objectionable odor. The Director may require an existing animal operation to submit a best management plan pursuant to 15A NCAC 02D .1803, then submit the best management plan pursuant to Paragraph (h) of this Rule if the existing animal operation fails to submit an odor management plan.

(e) Location of objectionable odor determinations.

- (1) For an existing animal operation that does not meet the following siting requirements:
 - (A) at least 1,500 feet from any occupied residence not owned by the owner of the animal operation;
 - (B) at least 2,500 feet from any school, hospital, church, outdoor recreation Facility, national park, State Park, historic property, or child care center; and
 - (C) at least 500 feet from any property boundary;
 objectionable odors shall be determined at neighboring occupied property not owned by the owner of the animal operation, such as businesses, schools, hospitals, churches, outdoor recreation facilities, national parks, State Parks, historic properties, or child care centers that are affected.
- (2) For a new animal operation or existing animal operation that meets the siting requirements in Subparagraph (1) of this Paragraph, objectionable odors shall be determined beyond the boundary of the animal operation.

(f) Complaints. The Director shall respond to complaints about objectionable odors from animal operations as follows:

- (1) Complaints shall be investigated;

- (2) Complaints may be used to assist in determination of a best management plan failure or a control technology failure;
- (3) The Director shall respond to complaints within 30 days of receipt of the complaint;
- (4) Complaint response shall include the Director's evaluation of the complaint;
- (5) The investigation of a complaint shall be completed as expeditiously as possible considering the meteorology, activities at the animal operation, and other conditions occurring at the time of the complaint.

(g) Determination of the existence of an objectionable odor. In determining if an animal operation is causing or contributing to an objectionable odor, the factors the Director may consider include:

- (1) the nature, intensity, frequency, pervasiveness, and duration of the odors from the animal operation;
- (2) complaints received about objectionable odors from the animal operation;
- (3) emissions from the animal operation of known odor causing compounds, such as ammonia, total volatile organics, hydrogen sulfide, or other sulfur compounds at levels that could cause or contribute to an objectionable odor;
- (4) any epidemiological studies associating health problems with odors from the animal operation or documented health problems associated with odors from the animal operation provided by the State Health Director; or
- (5) any other evidence, including records maintained by neighbors, that show that the animal operation is causing or contributing to an objectionable odor.

(h) Requirements for a best management plan for control of odors from existing animal operations. If the Director determines that an existing animal operation is causing or contributing to an objectionable odor, the owner or operator of the animal operation shall:

- (1) submit to the Director as soon as practical, but not to exceed 90 days after receipt of written notification from the Director that the animal operation is causing or contributing to an objectionable odor, a best management plan for odor control as described in 15A NCAC 02D .1803; and
- (2) comply with the terms of the best management plan within 30 days after the Director approves the best management plan, or the Director may

approve an alternate compliance schedule based upon the complexity of the best management plan (approved compliance schedule is an alternate schedule to 30 days).

(i) Requirement for amendment to the best management plan. No later than 60 days from completion of a compliance schedule in an approved best management plan or if the best management plan contains no compliance schedule, no later than 60 days from the implementation date of the best management plan, the Director shall determine whether the plan has been implemented. If the Director determines at any time that a plan submitted pursuant to Paragraph (h) of this Rule does not control objectionable odors from the animal operation, the Director shall require the owner or operator of the animal operation to amend the plan to incorporate additional or alternative measures to control objectionable odors from the animal operation. The owner or operator shall:

- (1) submit a revised best management plan to the Director as soon as practical but not later than 60 days after receipt of written notification from the Director that the plan is inadequate; and
- (2) comply with the revised best management plan within 30 days after the Director approves the revisions to the best management plan (approved compliance schedule is an alternate schedule to 30 days).

(j) Requirements for control technology. After the best management plan has been implemented and revised no more than one time excluding voluntary revisions and revisions made pursuant to 15A NCAC 02D .1803(c), a plan failure shall constitute a finding by the Director, using the criteria pursuant to Paragraph (g) of this Rule. If a plan failure occurs, the Director shall require the owner or operator of the animal operation to install control technology to control odor from the animal operation. Within 90 days from receipt of written notification from the Director of a plan failure, the owner or operator shall submit a permit application for control technology and an installation schedule. If the owner or operator demonstrates to the Director that a permit application cannot be submitted within 90 days, the Director shall extend the time for submittal up to an additional 90 days if the owner or operator demonstrates the delay in submitting the application was beyond his or her control. Control technology shall be determined according to Subparagraph (1) of this Paragraph. The installation schedule shall contain the increments of progress described in Subparagraph (2) of this Paragraph. The owner or operator may at any time request adjustments in the installation schedule and shall in his or her request explain why the schedule cannot be met. If the Director finds the request to be accurate, the Director shall revise the installation schedule as requested; however, the Director shall not extend the final compliance date beyond 24 months from the date that the permit was first issued for the control technology. The owner or operator shall certify to the Director within five days after the deadline for each increment of progress described in Subparagraph (2) of this Paragraph whether the required increment of progress has been met.

- (1) Control technology. The owner or operator of an animal operation shall identify control technologies that are technologically feasible

for his or her animal operation and shall select the control technology or control technologies that results in the greatest reduction of odors considering human health, energy, environmental, and economic impacts and other costs. The owner or operator shall explain the reasons for selecting the control technology or control technologies. If the Director finds that the selected control technology or control technologies will control objectionable odors following the procedures in 15A NCAC 02Q .0300 or .0500, he or she shall approve the installation of the control technology or control technologies for this animal operation upon permit issuance. The owner or operator of the animal operation shall comply with all terms and conditions in the permit.

(2) Installation schedule. The installation schedule for control technology shall contain the following increments of progress:

- (A) a date by which contracts for odor control technology shall be awarded or orders shall be issued for purchase of component parts or materials;
- (B) a date by which on-site construction or installation of the odor control technology shall begin;
- (C) a date by which on-site construction or installation of the odor control technology shall be completed; and
- (D) a date by which final compliance shall be achieved.

Control technology shall be in place and operating as soon as practical but not to exceed 12 months from the date that the permit is issued for control technology.

(k) The following requirements shall apply to new or modified animal operations:

- (1) Before beginning construction, the owner or operator of a new or modified animal operation raising or producing swine shall submit and have an approved best management plan and shall meet the following setbacks. A house or lagoon that is a component of an animal operation shall be constructed:
 - (A) at least 1,500 feet from any occupied residence not owned by the owner of the animal operation;
 - (B) at least 2,500 feet from any school, hospital, church, outdoor recreation facility, national park, State Park, historic property, or child care center; and
 - (C) at least 500 feet from any property boundary;
- (2) Before beginning construction, the owner or operator of a new or modified animal operation other than swine shall submit and have an approved best management plan.

- (3) For new or modified animal operations raising or producing swine, the outer perimeter of the land area onto which waste is applied that is a component of an animal operation shall be:
 - (A) at least 75 feet from any boundary of property on which an occupied residence not owned by the owner of the animal operation is located; and
 - (B) at least 200 feet from any occupied residence not owned by the owner of the animal operation.
- (4) The Director shall either approve or disapprove the best management plan submitted pursuant to this Paragraph within 90 days after receipt of the plan. If the Director disapproves the plan, he or she shall identify the plan's deficiency.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(11); 143-215.108(a); 150B-21.6; Temporary Adoption Eff. April 27, 1999; March 1, 1999; Eff. July 1, 2000; Readopted Eff. September 1, 2019.

15A NCAC 02D .1803 BEST MANAGEMENT PLANS FOR ANIMAL OPERATIONS

(a) Contents of a best management plan. The best management plan for animal operations shall:

- (1) identify the name, location, and owner of the animal operation;
- (2) identify the name, title, address, and telephone number of the person filing the plan;
- (3) identify the sources of odor within the animal operation;
- (4) describe how odor will be controlled from:
 - (A) the animal houses;
 - (B) the animal wastewater lagoon, if used;
 - (C) the animal wastewater application lands, if used;
 - (D) waste conveyances and temporary accumulation points; and
 - (E) other possible sources of odor within the animal operation;
- (5) contain a diagram showing all structures and lagoons at the animal operation, forced air directions, and approximate distances to structures or groups of structures within 3000 feet of the property line of the animal operation; an aerial photograph may be submitted in place of a diagram provided the items required in accordance with this Subparagraph of this Rule are shown;
- (6) for existing animal operations, contain a schedule not to exceed six months by which the plan will be implemented. A new animal operation shall and be in compliance with its best management plan when it begins operations. For an amended best management plan, the implementation schedule shall not exceed six months;

- (7) describe how the plan will be implemented, including training of personnel;
- (8) describe inspection and maintenance procedures; and
- (9) describe methods of monitoring and recordkeeping to verify compliance with the plan.

(b) The Division shall review all best management plan submittals within 30 days of receipt to determine if the submittal is complete or incomplete for processing purposes. To be complete, the submittal shall contain all the elements listed in Paragraph (a) of this Rule. The Division shall notify the person submitting the plan by letter stating that:

- (1) the submittal is complete;
- (2) the submittal is incomplete and identifying the missing elements and a date by which the missing elements need to be submitted to the Division; or
- (3) the best management plan is incomplete and requesting that the person rewrite and resubmit the plan.

(c) Approval of the best management plan. The Director shall approve the plan if he or she finds that:

- (1) the plan contains all the required elements in Paragraph (a) of this Rule;
- (2) the proposed schedule contained in the plan will reduce objectionable odors;
- (3) the methods used to control objectionable odors will prevent objectionable odors beyond the property lines of the animal operation. The Director shall not consider impacts of objectionable odors on neighboring property if the owner of the neighboring property agrees in writing that he or she does not object to objectionable odors on his or her property and this written statement is included with the proposed best management plan. This agreement becomes void if the neighboring property changes ownership. If the neighboring property changes ownership, the plan shall be revised, if necessary, to prevent objectionable odors on this property unless the new owner agrees in writing that he or she does not object to objectionable odors on his property; and
- (4) the described methods verify compliance with the plan.

Within 90 days after receipt of a plan, the Director shall determine whether the proposed plan meets the requirements of this Paragraph. If the Director finds that the proposed plan does not meet the requirements of this Paragraph, he or she shall notify the owner or operator of the animal operation in writing of the deficiencies in the proposed plan. The owner or operator shall have 30 days after receiving written notification from the Director to correct the deficiencies. If the Director finds that the proposed plan is acceptable, he or she shall notify the owner or operator in writing that the proposed plan has been approved.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(11);

*Temporary Adoption Eff. April 27, 1999; March 1, 1999;
Eff. July 1, 2000;
Readopted Eff. September 1, 2019.*

**15A NCAC 02D .1804 REPORTING REQUIREMENTS
FOR ANIMAL OPERATIONS**

If the Department receives an odor complaint about an animal operation, the Department may require the owner or operator of the animal operation to submit the following information to investigate the odor complaint:

- (1) the name and location of the animal operation;
- (2) the name, title, address, and telephone number of the person reporting;
- (3) the type and number of animals at the animal operation;
- (4) potential sources of odors, such as animal housing structures, lagoons, collection and handling devices, and storage containers, with a physical description of these sources;
- (5) waste water land application procedures; and
- (6) measures taken to reduce odors.

The owner or operator shall submit this information to the Division within 15 days after receipt of the request.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(11)
Temporary Adoption Eff. March 1, 1999;
Eff. July 1, 2000;
Readopted Eff. September 1, 2019.*

**15A NCAC 02D .1806 CONTROL AND PROHIBITION
OF ODOROUS EMISSIONS**

(a) Purpose. The purpose of this Rule is to provide for the control and prohibition of objectionable odorous emissions.

(b) Definitions. For the purpose of this Rule, the following definitions shall apply:

- (1) "Commercial purposes" means activities that require a State or local business license to operate.
- (2) "Temporary activities or operations" means activities or operations that are less than 30 days in duration during the course of a calendar year and do not require an air quality permit.

(c) Applicability. With the exemptions in Paragraph (d) of this Rule, this Rule shall apply to all operations that produce odorous emissions that can cause or contribute to objectionable odors beyond the facility's boundaries.

(d) Exemptions. The requirements of this Rule do not apply to:

- (1) processes at kraft pulp mills identified in 15A NCAC 02D .0528 and subject to 15A NCAC 02D .0524 or .0528;
- (2) processes at facilities that produce feed-grade animal proteins or feed-grade animal fats and oils identified in 15A NCAC 02D .0539;
- (3) motor vehicles and transportation facilities;
- (4) all on-farm animal and agricultural operations, including dry litter operations and operations subject to 15A NCAC 02D .1804;

- (5) municipal wastewater treatment plants and municipal wastewater handling systems;
- (6) restaurants and food preparation facilities that prepare and serve food on site;
- (7) single family dwellings not used for commercial purposes;
- (8) materials odorized for safety purposes;
- (9) painting and coating operations that do not require a business license;
- (10) all temporary activities or operations; or
- (11) any facility that stores products that are grown, produced, or generated on one or more agricultural operations and that are "renewable energy resources," as defined in G.S. 62-133.8(a)(8) if the facility identifies the sources of potential odor emissions and specifies odor management practices in their permit pursuant to 15A NCAC 02Q .0300 or .0500 to minimize objectionable odor beyond the property lines.

(e) Control Requirements. The owner or operator of a facility subject to this Rule shall not operate the facility without implementing management practices or installing and operating odor control equipment sufficient to prevent odorous emissions from the facility from causing or contributing to objectionable odors beyond the facility's boundary.

(f) Odor management plan. If the Director determines that a source or facility subject to this Rule is causing or contributing to objectionable odors beyond its property boundary by the procedures described in Paragraph (i) of this Rule, the owner or operator shall develop and submit an odor management plan within 60 days of receipt of written notification from the Director of an objectionable odor determination. The odor management plan shall:

- (1) identify the sources of odorous emissions;
- (2) describe how odorous emissions will be controlled from each identified source;
- (3) describe how the plan will be implemented; and
- (4) contain a schedule by which the plan will be implemented.

Upon receipt of an approval letter from the Director for the odor management plan, the source or facility shall implement the approved plan within 30 days, unless an alternative schedule of implementation is approved as part of the odor management plan submittal. If the Director finds that the odor management plan does not meet the requirements of this Paragraph or address the specific odor concerns, he or she shall notify the owner or operator of any deficiencies in the proposed plan. The owner or operator shall have 30 days after receipt of written notification from the Director to resubmit the odor management plan correcting the stated deficiencies with the plan or the schedule of implementation. If the owner or operator fails to correct the plan deficiencies with the second draft plan submittal or repeatedly fails to meet the deadlines set forth in this Paragraph or Paragraph (g) of this Rule, the Director shall notify the owner or operator in writing that they are required to comply with the maximum feasible control requirements in Paragraph (h) of this Rule.

(g) Odor management plan revision. If after the odor management plan has been implemented, the Director determines that the plan fails to eliminate objectionable odor emissions from a source or

facility using the procedures described in Paragraph (i) of this Rule, he or she shall require the owner or operator of the facility to submit a revised plan. Within 60 days after receiving written notification from the Director of a new objectionable odor determination, the owner or operator of the facility shall submit a revision to their odor management plan following the procedures and timelines in Paragraph (f) of this Rule. If the revised plan, once implemented, fails to eliminate objectionable odors, then the source or facility shall comply with requirements in Paragraph (h) of this Rule.

(h) Maximum feasible controls. If an amended odor management plan does not prevent objectionable odors beyond the facility's boundary, the Director shall require the owner or operator to implement maximum feasible controls for the control of odorous emissions. Maximum feasible controls shall be determined according to the procedures in 15A NCAC 02D .1807. The owner or operator shall:

- (1) complete the process outlined in 15A NCAC 02D .1807 and submit a complete permit application according to 15A NCAC 02Q .0300 or 15A NCAC 02Q .0500, as applicable, within 180 days of receipt of written notice from the Director requiring implementation of maximum feasible controls. The application shall include a compliance schedule containing the following increments of progress:
 - (A) a date by which contracts for the odorous emission control systems and equipment shall be awarded or orders shall be issued for purchase of component parts;
 - (B) a date by which on-site construction or installation of the odorous emission control systems and equipment shall begin;
 - (C) a date by which on-site construction or installation of the odorous emission control systems and equipment shall be completed; and
 - (D) a date by which final compliance shall be achieved.
- (2) install and begin operating maximum feasible controls within 18 months after receiving written notification from the Director of the requirement to implement maximum feasible controls. The owner or operator may request an extension to implement maximum feasible controls. The Director shall approve an extension request if he or she finds that the extension request is the result of circumstances beyond the control of the owner or operator.

The owner or operator shall certify to the Director within five days after the deadline for each increment of progress in this Paragraph whether the required increment of progress has been met.

(i) Determination of the existence of an objectionable odor. A source or facility is causing or contributing to an objectionable odor when:

- (1) a member of the Division staff determines by field investigation that an objectionable odor is

present by taking into account the nature, intensity, pervasiveness, duration, and source of the odor and other pertinent such as wind direction, meteorology, and operating parameters of the facility;

- (2) the source or facility emits known odor-causing compounds such as ammonia, total volatile organics, hydrogen sulfide, or other sulfur compounds at levels that cause objectionable odors beyond the property line of that source or facility; or
- (3) the Division receives from the State Health Director epidemiological studies associating health problems with odors from the source or facility.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);

Eff. April 1, 2001;

Readopted Eff. September 1, 2019.

15A NCAC 02D .1807 DETERMINATION OF MAXIMUM FEASIBLE CONTROLS FOR ODOROUS EMISSIONS

(a) Scope. This Rule sets out procedures for determining maximum feasible controls for odorous emissions. The owner or operator of the facility shall be responsible for providing the maximum feasible control determination.

(b) Process for maximum feasible control determinations. The following sequential process shall be used on a case-by-case basis to determine maximum feasible controls:

- (1) Identify all available control technologies. In the first step, all available options for the control of odorous emissions shall be listed. Available options include all possible control technologies or techniques with a potential to control, reduce, or minimize odorous emissions. For the purposes of this document, a comprehensive and effective odor control plan may be listed among the possible odor control technologies as a viable and satisfactory maximum feasible control technology option. All available control technologies shall be included on this list regardless of their technical feasibility or potential energy, human health, economic, or environmental impacts.
- (2) Eliminate technically infeasible options. In the second step, the technical feasibility of all the control options identified pursuant to Subparagraph (b)(1) of this Rule shall be evaluated with respect to source specific factors. A demonstration of technical infeasibility shall be documented and shall show, based on physical, chemical, or engineering principles, that technical difficulties preclude the successful use of the control option under review. Technically infeasible control options shall then be

- eliminated from further consideration as maximum feasible controls.
- (3) Rank remaining control technologies by control effectiveness. All the remaining control technologies, which have not been eliminated pursuant to Subparagraph (b)(2) of this Rule, shall be ranked and then listed in order of their ability to control odorous emissions, with the most effective control option at the top of the list. The list shall present all the control technologies that have not been previously eliminated and shall include the following information:

- (A) control effectiveness;
- (B) economic impacts, including cost effectiveness;
- (C) environmental impacts: this shall include any media impacts (for example, water or solid waste), at a minimum the impact of each control alternative on emissions of toxic or hazardous air pollutants;
- (D) human health impacts; and
- (E) energy impacts.

However, an owner or operator proposing to implement the most stringent alternative, in terms of control effectiveness, need not provide detailed information concerning the other control options. In such cases, the owner or operator shall provide documentation to the Director the proposed control option is the most efficient, in terms of control effectiveness, and provide a review of collateral environmental impacts.

- (4) Evaluate most effective controls and document results. Following the delineation of all available and technically feasible control technology options pursuant to Subparagraph (b)(3) of this Rule, the energy, human health, environmental, and economic impacts shall be considered in order to arrive at the maximum feasible controls. An analysis of the predicted and associated impacts for each option shall be conducted. The owner or operator shall present an objective evaluation of the impacts of each alternative. Beneficial and adverse impacts shall be analyzed and, if possible, quantified. If the owner or operator proposed to select the most stringent alternative, in terms of control effectiveness, as maximum feasible controls, he or she shall evaluate whether impacts of unregulated air pollutants or environmental impacts in other media would justify selection of an alternative control technology. If there are no concerns regarding collateral environmental impacts, the analysis is ended and this proposed option is selected as maximum feasible controls. In the event the most stringent alternative is inappropriate, due to energy,

human health, environmental, or economic impacts, the justification for this conclusion shall be documented. The next most stringent option, in terms of control effectiveness, shall become the primary alternative and be similarly evaluated. This process shall continue until the control technology evaluated cannot be eliminated due to source-specific environmental, human health, energy, or economic impacts.

- (5) Select maximum feasible controls. The most stringent option, in terms of control effectiveness, that is not eliminated pursuant to Subparagraph (b)(4) of this Rule shall be selected as maximum feasible controls.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);

Eff. April 1, 2001;

Readopted Eff. September 1, 2019.

15A NCAC 02D .1808 EVALUATION OF NEW OR MODIFIED SWINE FARMS

(a) Purpose. The purpose of this Rule is to specify the methods for evaluating new or modified swine farms for compliance with the performance standard in G.S. 143-215.10I (b)(3).

(b) Applicability. This Rule applies to new or modified swine farms required by G.S. 143-215.10I to meet the performance standard in G.S. 143-215.10I (b)(3).

(c) Requirements. New or modified swine farms subject to this Rule shall comply with the requirements in this Section.

(d) Evaluation of new or modified swine farms. For the purpose of evaluating odor at new or modified swine farms for compliance with the performance standard in G.S. 143-215.10I (b)(3), the following shall apply:

- (1) When a field olfactometry method and instrumentation is used to determine odor intensity at the designated evaluation location, as specified in 15A NCAC 02D .1802(e), the measured dilution-to-threshold ratio shall be less than or equal to 7:1 as determined using the manufacturer's instrument procedures and instructions; or
- (2) When odor intensity is determined using an Odor Intensity Referencing Scale (OIRS) as specified in ASTM 544-99, the instantaneous observed level shall be less than the equivalent of 225 parts per million n-butanol in air. In addition, the average of 30 consecutive observations conducted over a minimum of 30-minutes at designated evaluation locations shall be less than the equivalent of 75 parts per million n-butanol in air and a minimum of 4 readings out of the minimum 30 readings shall be less than or equal to the equivalent 25 parts per million n-butanol in air.

History Note: Authority G.S. 143-215.10I; 143-215.3(a)(1); 143-215.107(a)(11); 143-215.108(a);

*Eff. January 1, 2009;
Readopted Eff. September 1, 2019.*

15A NCAC 02D .1901 OPEN BURNING: PURPOSE: SCOPE

(a) Open Burning Prohibited. A person shall not cause, allow, or permit open burning of combustible material except as allowed by 15A NCAC 02D .1903 and .1904.

(b) Purpose. The purpose of this Section is to control air pollution resulting from the open burning of combustible materials and to protect the air quality in the immediate area of the open burning.

(c) Scope. This Section applies to all operations involving open burning. This Section does not authorize any open burning that is a crime pursuant to G.S. 14-136, G.S. 14-137, G.S. 14-138.1 and G.S. 14-140.1, or affect the authority of the North Carolina Forest Service to issue or deny permits for open burning in or adjacent to woodlands as provided in G.S. 106-940 through G.S. 106-950. This Section does not affect the authority of any local government to regulate open burning through its fire codes or other ordinances. The issuance of any open burning permit by the North Carolina Forest Service or any local government does not relieve any person from the necessity of complying with this Section or any other air quality rule.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);
Eff. July 1, 1996;
Amended Eff. January 1, 2015; July 1, 2007; June 1, 2004;
Readopted Eff. September 1, 2019.*

15A NCAC 02D .1902 DEFINITIONS

For the purpose of this Section, the following definitions apply:

- (1) "Air Curtain Incinerator" means a stationary or portable combustion device that operates by directing a plane of high velocity forced draft air through a manifold head onto an open chamber, pit, or container with vertical walls to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain. These incinerators can be built above or below ground and be constructed with or without refractory walls and floors. These shall not include conventional combustion devices with enclosed fireboxes or controlled air technology such as mass burn, modular, or fluidized bed combustors.
- (2) "Air Quality Action Day Code 'Orange' or above" means an air quality index of 101 or greater as defined in 40 CFR Part 58, Appendix G. This includes Codes Orange, Red, Purple, and Maroon.
- (3) "Dangerous materials" means explosives or containers used in the holding or transporting of explosives.
- (4) "Initiated" means to start or ignite a fire or reignite or rekindle a fire.
- (5) "Land clearing" means the uprooting or clearing of vegetation in connection with construction for buildings; agricultural,

residential, commercial, institutional, or industrial development; mining activities; or the initial clearing of vegetation to enhance property value. This term does not include regularly scheduled maintenance or property clean-up activities.

- (6) "Log" means any limb or trunk whose diameter exceeds six inches.
- (7) "Nonattainment area" means an area designated in 40 CFR 81.334 as nonattainment.
- (8) "Nuisance" means causing physical irritation exacerbating a documented medical condition, visibility impairment, or evidence of soot or ash on property or structure other than the property on which the burning is done.
- (9) "Occupied structure" means a building where people can be reasonably expected to be present or a building used for housing farm or domestic animals.
- (10) "Off-site" means any area not on the premises of the land-clearing activities.
- (11) "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a stack, chimney, or a permitted air pollution control device.
- (12) "Person" as used in 15A NCAC 02D .1901 means:
 - (a) the person in operational control over the open burning; or
 - (b) the landowner or person in possession or control of the land when he or she has directly or indirectly allowed the open burning or the Division determined, based upon an investigation into the open burn, that the land owner has benefited from it.
- (13) "Pile" means a quantity of combustible material assembled together in one place.
- (14) "Public pick-up" means the removal of refuse, yard trimmings, limbs, or other plant material from a residence by a governmental agency, private company contracted by a governmental agency, or municipal service.
- (15) "Public road" means any road that is part of the State highway system or any road, street, or right-of-way dedicated or maintained for public use.
- (16) "Refuse" means any garbage, rubbish, or trade waste.
- (17) "Regional Office Supervisor" means the supervisor of personnel of the Division of Air Quality in a regional office of the Department of Environmental Quality.
- (18) "Right-of-way maintenance" means vegetation management, including grass cutting, weed abatement, tree trimming, and tree and brush

- removal of existing streets, highways, and public places.
- (19) "Salvageable items" means any product or material that was first discarded or damaged and then all or part was recovered for future use. Examples of these items include insulated wire, electric motors, and electric transformers.
- (20) "Smoke management plan" means the plan developed following the North Carolina Forest Service's smoke management program and approved by the North Carolina Forest Service. The purpose of the smoke management plan is to manage smoke from prescribed burns of public and private forests to minimize the impact of smoke on air quality and visibility.
- (21) "Synthetic material" means man-made material, including tires, asphalt materials such as shingles or asphaltic roofing materials, construction materials, packaging for construction materials, wire, electrical insulation, and treated or coated wood.

History Note: Authority G.S. 143-215.3(a)(1); Eff. July 1, 1996; Amended Eff. January 1, 2015; July 1, 2007; December 1, 2005; June 1, 2004; July 1, 1998; Readopted Eff. September 1, 2019.

15A NCAC 02D .1903 OPEN BURNING WITHOUT AN AIR QUALITY PERMIT

(a) All open burning is prohibited except open burning allowed pursuant to Paragraph (b) of this Rule or 15A NCAC 02D .1904. Except as allowed pursuant to Subparagraphs (b)(3) through (b)(9) of this Rule, open burning shall not be initiated in a county that the Department or the Forsyth County Office of Environmental Assistance and Protection, has forecasted to be in an Air Quality Action Day Code "Orange" or above during the 24-hour time period covered by that Air Quality Action Day.

(b) The following types of open burning are permissible without an air quality permit.

- (1) The open burning of leaves, logs, stumps, tree branches, or yard trimmings, if the following conditions are met:
- (A) the material burned originates on the premises of private residences and is burned on those premises and does not include material collected from multiple private residences and combined for burning;
- (B) there are no public pickup services available;
- (C) non-vegetative materials, such as household garbage, treated or coated wood, or any other synthetic materials are not burned;
- (D) the burning is initiated no earlier than 8:00 a.m. and no additional combustible material is added to the

- fire between 6:00 p.m. on one day and 8:00 a.m. on the following day;
- (E) the burning does not create a nuisance; and
- (F) material is not burned when the North Carolina Forest Service or other government agencies have banned burning for that area.

The burning of logs or stumps of any size shall not be considered to create a nuisance for purposes of the application of the open burning air quality permitting exception described in this Subparagraph;

(2) The open burning for land clearing or right-of-way maintenance if the following conditions are met:

- (A) The wind direction at the time that the burning is initiated and the wind direction as forecasted by the National Weather Service at the time that the burning is initiated are away from any area, including public roads within 250 feet of the burning as measured from the edge of the pavement or other roadway surface, which may be affected by smoke, ash, or other air pollutants from the burning;
- (B) The location of the burning is at least 500 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property where the burning is conducted. The regional office supervisor may grant exceptions to the setback requirements if:
- (i) a signed, written statement waiving objections to the open burning associated with the land clearing operation is obtained and submitted to, and the exception granted by, the regional office supervisor before the burning begins from a resident or an owner of each dwelling, commercial or institutional establishment, or other occupied structure within 500 feet of the open burning site. In the case of a lease or rental agreement, the lessee or renter shall be the person from whom permission shall be gained prior to any burning; or
- (ii) an air curtain incinerator that complies with 15A NCAC

- 02D .1904 is utilized at the open burning site.
- Factors that the regional supervisor shall consider in deciding to grant the exception include: all the persons who need to sign the statement waiving the objection have signed it; the location of the burn; and the type, amount, and nature of the combustible substances. The regional supervisor shall not grant a waiver if a college, school, licensed day care, hospital, licensed rest home, or other similar institution is less than 500 feet from the proposed burn site when such institution is occupied;
- (C) Only land-cleared plant growth is burned. Heavy oils, items containing natural or synthetic rubber, synthetic materials, or any materials other than plant growth shall not be burned; however, kerosene, distillate oil, or diesel fuel may be used to start the fire;
 - (D) Initial burning begins only between the hours of 8:00 a.m. and 6:00 p.m., and no combustible material is added to the fire between 6:00 p.m. on one day and 8:00 a.m. on the following day;
 - (E) No fires are initiated or vegetation added to existing fires when the North Carolina Forest Service or other government agencies have banned burning for that area; and
 - (F) Materials are not carried off-site or transported over public roads for open burning unless the materials are carried or transported to:
 - (i) Facilities permitted in accordance with 15A NCAC 02D .1904 for the operation of an air curtain incinerator at a permanent site; or
 - (ii) A location, where the material is burned not more than four times per calendar year, which meets all of the following criteria:
 - (I) at least 500 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted;
- (II) there are no more than two piles, each no more than 20 feet in diameter, being burned at one time; and
 - (III) the location is not a permitted solid waste management facility;
- (3) camp fires and fires used solely for outdoor cooking and other recreational purposes, ceremonial occasions, or for human warmth and comfort and that do not create a nuisance and do not use synthetic materials, refuse, or salvageable materials for fuel;
 - (4) fires purposely set to public or private forest land for forest management practices for which burning is currently acceptable to the North Carolina Forest Service;
 - (5) fires purposely set to agricultural lands for disease and pest control and fires set for other agricultural or apicultural practices for which burning is currently acceptable to the North Carolina Department of Agriculture and Consumer Services;
 - (6) fires purposely set for wildlife management practices for which burning is currently acceptable to the Wildlife Resource Commission;
 - (7) fires for the disposal of dangerous materials when the Division has determined that it is the safest and most practical method of disposal;
 - (8) fires purposely set by manufacturers of fire-extinguishing materials or equipment, testing laboratories, or other persons, for the purpose of testing or developing these materials or equipment in accordance with a standard qualification program;
 - (9) fires purposely set for the instruction and training of fire-fighting personnel at permanent fire-fighting training facilities;
 - (10) fires purposely set for the instruction and training of fire-fighting personnel when conducted under the supervision of or with the cooperation of one or more of the following agencies:
 - (A) the North Carolina Forest Service;
 - (B) the North Carolina Department of Insurance; or
 - (C) North Carolina Community Colleges;
 - (11) fires not described in Subparagraphs (9) or (10) of this Paragraph, purposely set for the instruction and training of fire-fighting personnel, provided that:
 - (A) the regional office supervisor has been notified according to the procedures and deadlines contained in the notification form and the regional

office supervisor has granted permission for the burning. The information required to be submitted in the form includes:

- (i) the address of the fire department that is requesting the training exercise;
- (ii) the location of the training exercise;
- (iii) a description of the type of structure or object and amount of materials to be burned at the location of the training exercise;
- (iv) the dates that the training exercise will be performed; and
- (v) an inspection from a North Carolina Asbestos Inspector that the structure being burned is free of asbestos.

The form shall be submitted 10 days prior to commencement of the burn. This form may be obtained in electronic format at <https://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/open-burning/firefighter-information> or by writing the appropriate regional office at the address in 15A NCAC 02D .1905 and requesting it.

(B) Factors that the regional office supervisor shall consider in granting permission for the burning include:

- (i) type, amount, and nature of combustible substances. The regional office supervisor shall not grant permission for the burning of salvageable items or if the primary purpose of the fire is to dispose of synthetic materials or refuse;
- (ii) the burning of previously demolished structures. The regional office supervisor shall not consider these structures as having training value;
- (iii) the burning of motor vehicles. The regional office supervisor may allow an exercise involving the burning of motor vehicles burned over a period of time by a training unit or by several related training units if he or she determines that they have training value; and

- (iv) the distance from the location of the fire training to residential, commercial, or institutional buildings or properties.

Any deviations from the dates and times of exercises, including additions, postponements, and deletions, submitted in the schedule in the approved plan shall be communicated verbally to the regional office supervisor at least one hour before the burn is scheduled.

- (12) fires for the disposal of vegetative material generated as a result of a natural disaster, such as tornado, hurricane, or flood, if the regional office supervisor grants permission for the burning. The person desiring to do the burning shall document and provide written notification to the regional office supervisor that there is no other practical method of disposal of the waste. Factors that the regional office supervisor shall consider in granting permission for the burning include type, amount, location of the burning, and nature of combustible substances. The regional office supervisor shall not grant permission for the burning if the primary purpose of the fire is to dispose of synthetic materials or refuse or recovery of salvageable materials. Fires authorized under this Subparagraph shall comply with the conditions of Parts (b)(2)(A) through (E) of this Rule.

(c) The authority to conduct open burning pursuant to this Section does not exempt or excuse any person from the consequences, damages, or injuries that may result from this conduct. It does not excuse or exempt any person from complying with all applicable laws, ordinances, rules or orders of any other governmental entity having jurisdiction even though the open burning is conducted in compliance with this Section.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); S.L. 2011-394, s.2;

Eff. July 1, 1996;

Amended Eff. June 13, 2016; March 19, 2015; July 3, 2012; July 1, 2007; December 1, 2005; June 1, 2004; July 1, 1998;

Readopted Eff. September 1, 2019.

15A NCAC 02D .1904 AIR CURTAIN INCINERATORS

(a) Applicability. This Rule applies to the following air curtain incinerators:

- (1) new and existing air curtain incinerators subject to 40 CFR 60.2245 through 60.2260 or 60.2970 through 60.2974 that combust the following materials:
 - (A) 100 percent wood waste;
 - (B) 100 percent clean lumber;
 - (C) 100 percent yard waste; or
 - (D) 100 percent mixture of only wood waste, clean lumber, and yard waste.

- (2) new and existing temporary air curtain incinerators used at industrial, commercial, institutional, or municipal sites where a temporary air curtain incinerator is defined in Subparagraph (b)(6) of this Rule.
- (b) Definitions. For the purpose of this Rule, the following definitions apply:
- (1) "Clean lumber" means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood or wood products that have been painted, pigment-stained, or pressure treated, or manufactured wood products that contain adhesives or resins.
 - (2) "Malfunction" means any unavoidable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures caused entirely or in part by poor maintenance, careless operations or any other upset condition within the control of the emission source are not considered a malfunction.
 - (3) "New air curtain incinerator" means an air curtain incinerator that began operating on or after the effective date of this Rule.
 - (4) "Operator" means the person in operational control over the open burning.
 - (5) "Permanent air curtain incinerator" means an air curtain incinerator whose owner or operator operates the air curtain incinerator at one facility or site during the term of the permit.
 - (6) "Temporary air curtain incinerator" means an air curtain incinerator whose owner or operator moves the air curtain incinerator to another site and operates it for land clearing or right-of-way maintenance at that site at least once during the term of its permit.
 - (7) "Temporary-use air curtain incinerator used in disaster recovery" means an air curtain incinerator that meets all of the following requirements:
 - (A) combusts less than 35 tons per day of debris consisting of the materials listed in Parts (a)(1)(A) through (C) of this Rule;
 - (B) combusts debris within the boundaries of an area officially declared a disaster or emergency by federal, state or local government; and
 - (C) combusts debris for less than 16 weeks unless the owner or operator submits a request for additional time at least 1 week prior to the end of the 16-week period and provides the reasons that the additional time is needed. The Director will provide written approval for the additional time if he or she finds that the additional time is warranted based on the information provided in the request. Examples of disasters or emergencies include tornadoes, hurricanes, floods, ice storms, high winds, or acts of bioterrorism.
 - (8) "Wood waste" means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:
 - (A) grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial, institutional, or industrial sources as part of maintaining yards or other private or public lands;
 - (B) construction, renovation, or demolition wastes;
 - (C) clean lumber; and
 - (D) treated wood and treated wood products, including wood products that have been painted, pigment-stained, or pressure treated, or manufactured wood products that contain adhesives or resins.
 - (9) "Yard waste" means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. Yard waste comes from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include:
 - (A) construction, renovation, or demolition wastes;
 - (B) clean lumber; and
 - (C) wood waste.
- (c) Air curtain incinerators shall comply with the following conditions and requirements:
- (1) the operation of air curtain incinerators in particulate and ozone nonattainment areas shall cease in a county that the Department or the Forsyth County Office of Environmental Assistance and Protection has forecasted to be an Air Quality Action Day Code "Orange" or above during the 24-hour time period covered by that Air Quality Action Day;
 - (2) the wind direction at the time that the burning is initiated and the wind direction as forecasted by the National Weather Service during the time of the burning shall be away from any area, including public roads within 250 feet of the burning as measured from the edge of the pavement or other roadway surface, which may be affected by smoke, ash, or other air pollutants from the burning;
 - (3) no fires shall be started or material added to existing fires when the North Carolina Forest

- Service, Fire Marshall, or other governmental agency has banned burning for that area;
- (4) burning shall be conducted only between the hours of 8:00 a.m. and 6:00 p.m. No combustible materials shall be added to the air curtain incinerator prior to or after this time period;
 - (5) The air curtain incinerator shall not be operated more than the maximum source operating hours-per-day and days-per-week. The maximum source operating hours-per-day and days-per-week shall be set to protect the ambient air quality standard and prevention of significant deterioration (PSD) increment for particulate. The maximum source operating hours-per-day and days-per-week shall be determined using the modeling procedures in 15A NCAC 02D .1106(b), (c), and (f). This Subparagraph shall not apply to temporary air curtain incinerators;
 - (6) air curtain incinerators shall meet manufacturer's specifications for operation and upkeep to ensure complete burning of material charged into the pit. Manufacturer's specifications shall be kept on site and be available for inspection by Division staff;
 - (7) the owner or operator of an air curtain incinerator shall allow the ashes to cool and water the ash prior to its removal to prevent the ash from becoming airborne;
 - (8) only distillate oil, kerosene, diesel fuel, natural gas, or liquefied petroleum gas may be used to start the fire; and
 - (9) the location of the burning shall be at least 300 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted. The regional office supervisor may grant exceptions to the setback requirements if a signed, written statement waiving objections to the air curtain burning is obtained from a resident or an owner of each dwelling, commercial or institutional establishment, or other occupied structure within 300 feet of the burning site. In case of a lease or rental agreement, the lessee or renter, and the property owner shall sign the statement waiving objections to the burning. The statement shall be submitted to and approved by the regional office supervisor before initiation of the burn. Factors that the regional supervisor shall consider in deciding to grant the exception include: all the persons who need to sign the statement waiving the objection have signed it; the location of the burn; and the type, amount, and nature of the combustible substances.
- (d) Exemptions. Temporary-use air curtain incinerators used in disaster recovery are excluded from the requirements of this Rule if the following conditions are met:
- (1) the air curtain incinerator meets the definition of a temporary-use air curtain incinerators used in disaster recovery as specified in Subparagraph (b)(7) of this Rule;
 - (2) the air curtain incinerator meets all the requirements pursuant to 40 CFR 60.2969 or 60.3061, as applicable; and
 - (3) the air curtain incinerator is operated in a manner consistent with the operations manual for the air curtain incinerator and the charge rate during all periods of operation is less than or equal to the lesser of 35 tons per day or the maximum charge rate specified by the manufacturer of the air curtain incinerator.
- (e) Permitting. Air curtain incinerators shall be subject to 15A NCAC 02Q .0500.
- (1) The owner or operator of a new or existing permanent air curtain incinerator shall obtain a General Title V Operating Permit pursuant to 15A NCAC 02Q .0509.
 - (2) The owner or operator of a new or existing temporary air curtain incinerator shall obtain a General Title V Operating Permit pursuant to 15A NCAC 02Q .0510.
 - (3) The owner or operator of an existing permanent or temporary air curtain incinerator shall complete and submit a permit application no later than 12 months after the effective date of this Rule.
 - (4) The owner or operator of a new permanent or temporary air curtain incinerator shall complete and submit a permit application 60 days prior to the date the unit commences operation.
 - (5) The owner or operator of an existing permanent or temporary air curtain incinerator that is planning to close rather than obtaining a permit pursuant to 15A NCAC 02Q .0509 or 15A NCAC 02Q .0510 shall submit a closure notification to the Director no later than 12 months after the effective date of this Rule.
- (f) Opacity limits.
- (1) The owner or operator of an existing air curtain incinerators shall meet the following opacity limits:
 - (A) Maintain opacity to less than or equal to 35 percent opacity (as determined by the average of 3 1-hour blocks consisting of 10 6-minute average opacity values) during startup of the air curtain incinerator, where startup is defined as the first 30 minutes of operation.
 - (B) Maintain opacity to less than or equal to 10 percent opacity (as determined by the average of 3 1-hour blocks consisting of 10 6-minute average

- opacity values) at all times, other than during startup or during malfunctions.
- (2) The owner or operator of a new air curtain incinerator shall meet the opacity limits specified in Subparagraph (f)(1) of this Rule within 60 days after air curtain incinerator reaches the charge rate at which it will operate, but no later than 180 days after its initial startup.

(g) Performance tests.

- (1) All initial and annual opacity tests shall be conducted using 40 CFR 60 Appendix A-4 Test Method 9 to determine compliance with the opacity limitations specified in Subparagraph (f)(1) of this Rule.
- (2) The owner or operator of an existing air curtain incinerator shall conduct an initial performance test for opacity as specified in 40 CFR 60.8 on or before 90 days after the effective date of this rule.
- (3) The owner or operator of a new air curtain incinerator shall conduct an initial performance test for opacity as specified in 40 CFR 60.8 within 60 days after achieving the maximum charge rate at which the affected air curtain incinerator will be operated, but not later than 180 days after initial startup of the air curtain incinerator.
- (4) After the initial test for opacity, the owner or operator of a new or existing air curtain incinerator subject to this Rule shall conduct annual opacity tests on the air curtain incinerator no more than 12 calendar months following the date of the previous test.
- (5) The owner or operator of an existing air curtain incinerator that has ceased operations and is restarting after more than 12 months since the previous test shall conduct an opacity test upon startup of the unit.

(h) Recordkeeping and Reporting Requirements.

- (1) Prior to commencing construction of an air curtain incinerator, the owner or operator of a new air curtain incinerator shall submit the following information to the Director:
- (A) a notification of intent to construct an air curtain incinerator;
- (B) the planned initial startup date of the air curtain incinerator; and
- (C) the materials planned to be combusted in the air curtain incinerator.
- (2) The owner or operator of a new or existing air curtain incinerator shall do the following:
- (A) keep records of results of all initial and annual opacity tests onsite in either paper copy or electronic format for five years;
- (B) make all records available for submission to the Director or for an inspector's onsite review;

- (C) report the results of the initial and annual opacity tests as the average of 3 1-hour blocks consisting of 10 6-minute average opacity values;
- (D) submit initial opacity test results to the Division no later than 60 days following the initial test and submit annual opacity test results within 12 months following the previous report;
- (E) submit initial and annual opacity test reports to the Division as electronic or paper copy on or before the applicable submittal date; and
- (F) keep a copy of the initial and annual reports onsite for a period of five years.

(i) In addition to complying with the requirements of this Rule, an air curtain incinerator subject to:

- (1) 40 CFR Part 60, Subpart CCCC, shall also comply with 40 CFR 60.2245 through 60.2260; or
- (2) 40 CFR Part 60, Subpart EEEE, shall also comply with 40 CFR 60.2970 through 60.2974.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10); 143-215.108; 40 CFR 60.2865; S.L. 2011-394, s.2;

Eff. July 1, 1996;

Amended Eff. July 3, 2012; July 1, 2007; December 1, 2005; August 1, 2004;

Readopted Eff. September 1, 2019.

15A NCAC 02D .1905 REGIONAL OFFICE LOCATIONS

Inquiries, requests, and plans shall be handled by the appropriate Department of Environmental Quality regional office. They are:

- (1) Asheville Regional Office, 2090 U.S. 70 Highway, Swannanoa, North Carolina 28778;
- (2) Winston-Salem Regional Office, 450 West Hanes Mill Road, Suite 300, Winston-Salem, North Carolina 27105;
- (3) Mooresville Regional Office, 610 East Center Avenue, Suite 301, Mooresville, North Carolina 28115;
- (4) Raleigh Regional Office, 3800 Barrett Drive, Raleigh, North Carolina 27609;
- (5) Fayetteville Regional Office, 225 Green Street, Suite 714, Fayetteville, North Carolina 28301;
- (6) Washington Regional Office, 943 Washington Square Mall, Washington, North Carolina 27889; and
- (7) Wilmington Regional Office, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.

History Note: Authority G.S. 143-215.3(a)(1);

Eff. July 1, 1996;

Amended Eff. December 1, 2005;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 5, 2016;
Amended Eff. September 1, 2019.*

15A NCAC 02D .1906 DELEGATION TO COUNTY GOVERNMENTS

(a) The governing body of any county or municipality or group of counties or municipalities may establish a partial air pollution control program to implement and enforce this Section provided that the program complies with G.S. 143-215.112.

(b) The governing body shall submit to the Director documentation demonstrating that the requirements of G.S. 143-215.112 have been met. Within 90 days after receiving the submission from the governing body, the Director shall review the documentation to determine if the requirements of G.S. 143-215.112 have been met and shall present his or her findings to the Commission. If the Commission determines that the air pollution program meets the requirements in G.S. 143-215.112, it shall certify the local air pollution program to implement and enforce this Section within its area of jurisdiction.

(c) County and municipal governments shall not have the authority to issue permits for air curtain incinerators at a permanent site as defined in 15A NCAC 02D .1904.

(d) The three certified local air pollution programs, the Western North Carolina Regional Air Quality Agency, the Forsyth County Office of Environmental Assistance and Protection, and Mecklenburg County Air Quality, a Division of Land Use and Environmental Services Agency, shall continue to enforce open burning rules and have the authority to issue permits for air curtain incinerators as part of their local air pollution programs.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.112;
Eff. July 1, 1996;
Amended Eff. December 1, 2005; June 1, 2004;
Readopted Eff. September 1, 2019.*

15A NCAC 02D .1907 MULTIPLE VIOLATIONS ARISING FROM A SINGLE INVESTIGATION

(a) Multiple violations arising from a single investigation of open burning may be assessed multiple penalties using the procedures set forth in G.S. 143-215.3(a)(9). In determining the number of violations of the open burning rules, the Director shall consider:

- (1) the type of material burned;
- (2) the amount of material burned; and
- (3) the location of the burn.

(b) Each pile of land clearing or right-of-way maintenance debris that does not comply with the specifications of 15A NCAC 02D .1903(b)(2) shall constitute a separate violation.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);
Eff. July 1, 2007;
Readopted Eff. September 1, 2019.*

**15A NCAC 02T .1601 SCOPE
15A NCAC 02T .1602 DEFINITIONS**

History Note: Authority G.S. 143-214.2(b); 143-215.1; 143-215.1A;

*Eff. September 1, 2006;
Readopted Eff. September 1, 2018;
Repealed Eff. September 1, 2019.*

**15A NCAC 02T .1604 APPLICATION SUBMITTAL
15A NCAC 02T .1605 DESIGN CRITERIA
15A NCAC 02T .1606 SETBACKS
15A NCAC 02T .1607 MONITORING AND
REPORTING REQUIREMENTS
15A NCAC 02T .1608 REQUIREMENTS FOR
CLOSURE**

*History Note: Authority G.S. 143-214.2(b); 143-215.1; 143-215.1A;
Eff. September 1, 2006;
Readopted Eff. September 1, 2018;
Repealed Eff. September 1, 2019.*

15A NCAC 07J .0409 CIVIL PENALTIES

(a) Purpose and Scope. This Rule provides the procedures and standards governing the assessment, remission, settlement and appeal of civil penalties assessed by the Coastal Resources Commission and the Director pursuant to G.S. 113A-126(d).

(b) Definitions. The terms used in this Rule shall be as defined in G.S. 113A-103 and as follows:

- (1) "Act" means the Coastal Area Management Act of 1974, G.S. 113A-100 through 134, plus amendments.
- (2) "Delegate" means the Director or other employees of the Division of Coastal Management, or local permit officers to whom the Commission has delegated authority to act pursuant to this Rule.
- (3) "Director" means the Director, Division of Coastal Management.
- (4) "Respondent" means the person to whom a notice of violation has been issued or against whom a penalty has been assessed.

(c) Investigative costs. In addition to any civil penalty, the costs incurred by the Division for any investigation, inspection, and monitoring associated with assessment the civil penalty may be assessed pursuant to G.S. 113A-126(d)(4a). The amount of investigative costs assessed shall be based upon factors including the amount of staff time required for site visits, investigation, enforcement action, interagency coordination, and for monitoring restoration of the site.

(d) Notice of Violation. The Commission hereby authorizes employees of the Division of Coastal Management to issue in the name of the Commission notices of violation to any person engaged in an activity which constitutes a violation for which a civil penalty may be assessed.

(e) Procedures for Notification of Civil Penalty Assessment.

- (1) The Commission hereby delegates to the Director the authority to assess civil penalties according to the procedures set forth in Paragraph (g) of this Rule.

- (2) If restoration of affected resources is not required, the Director shall issue a civil penalty assessment within 90 days from the date of the Notice of Violation. If restoration of affected resources is required, the Director may issue a civil penalty assessment within 60 days after the Division determines that restoration of the adversely impacted resources is complete or once the date restoration was required has passed without having been completed.

(f) Procedures for Determining the Amount of Civil Penalty Assessment.

- (1) Pursuant to G.S. 113A-126(d)(1), penalties for major development violations, including violations of permit conditions, shall be assessed as follows:

- (A) Major development that could have been permitted under the Commission's rules at the time the notice of violation is issued shall be assessed a penalty equal to two times the relevant CAMA permit application

- fee as set forth in Rule .0204 of this Subchapter, plus investigative costs.
- (B) Major development that could not have been permitted under the Commission's rules at the time the notice of violation is issued shall be assessed an amount equal to the relevant CAMA permit application fee, plus a penalty pursuant to Schedule A of this Rule, plus investigative costs. If a violation affects more than one area of environmental concern (AEC) or coastal resource as listed within Schedule A of this Rule, the penalties for each affected AEC shall be combined. Any structure or part of a structure that is constructed in violation of existing Commission rules shall be removed or modified as necessary to bring the structure into compliance with the Commission's rules.

SCHEDULE A
Major Development Violations

Penalties for Major Development Permit Violations By Size of Violation (sq. ft.)

Area of Environmental Concern Affected	≤ 100	101-500	501-1,000	1001-3000	3001-5000	5001-8000	8001-11,000	11,001-15,000	15,001-20,000	20,001-25,000	>25,000
Estuarine Waters or Public Trust Areas (1)	\$250	\$375	\$500	\$1,500	\$2,000	\$3,500	\$5,000	\$7,000	\$9,000	\$10,000	\$10,000
Primary Nursery Areas	\$100	\$225	\$350	\$850	\$1,350	\$2,850	\$4,350	\$3,000	\$1,000	n/a	n/a
Mudflats and Shell Bottom	\$100	\$225	\$350	\$850	\$1,350	\$2,850	\$4,350	\$3,000	\$1,000	n/a	n/a
Submerged Aquatic Vegetation	\$100	\$225	\$350	\$850	\$1,350	\$2,850	\$4,350	\$3,000	\$1,000	n/a	n/a
Coastal Wetlands	\$250	\$375	\$500	\$1,500	\$2,000	\$3,500	\$5,000	\$7,000	\$9,000	\$10,000	\$10,000
Coastal Shorelines	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000
Wetlands (2)	\$100	\$200	\$300	\$700	\$1,100	\$2,300	\$3,500	\$4,750	\$2,750	\$750	n/a
ORW- Adjacent Areas	\$100	\$200	\$300	\$700	\$1,100	\$2,300	\$3,500	\$4,750	\$2,750	\$750	n/a
Ocean Hazard System (3)(4)	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000
Primary or Frontal Dune	\$100	\$200	\$300	\$700	\$1,100	\$2,300	\$3,500	\$4,750	\$2,750	\$750	n/a

APPROVED RULES

Public Water Supplies (5)	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000
Natural and Cultural Resource Areas (6)	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000

- (1) Includes the Atlantic Ocean from the normal high water mark to three miles offshore.
 - (2) Wetlands that are jurisdictional by the Federal Clean Water Act.
 - (3) If the AEC physically overlaps another AEC, use the greater penalty schedule.
 - (4) Includes the Ocean Erodible, Inlet Hazard Area, and Unvegetated Beach Area.
 - (5) Includes Small Surface Water Supply, Watershed and Public Water Supply Well Fields.
 - (6) Includes Coastal Complex Natural Areas, Coastal Areas Sustaining Remnant Species, Unique Geological Formations, Significant Coastal Archaeological Resources, and Significant Coastal Historical Architectural Resources.
- (C) Assessments for violations by public agencies (i.e. towns, counties and state agencies) shall be determined in accordance with Parts (1)(A) and (B) of this Paragraph.
- (D) Willful and intentional violations. The penalty assessed in accordance with Parts (1)(A) and (B) of this Paragraph. shall be doubled for willful and intentional violations except that the doubled penalties assessed under this Subparagraph shall not exceed ten thousand dollars (\$10,000) or be less than two thousand dollars (\$2,000) for each separate violation. For the purposes of G.S. 113A-126(d)(2), the following actions shall be considered willful and intentional:
- (i) the person received written instructions from one of the Commission's delegates that a permit would be required for the development and subsequently undertook development without a permit;
 - (ii) the person received written instructions from one of the Commission's delegates that the proposed development was not permissible under the Commission's rules, or received denial of a permit application for the proposed activity, and subsequently undertook the development without a permit;
- (iii) the person committed previous violations of the Commission's rules; or
- (iv) the person refused or failed to restore a damaged area as ordered by one of the Commission's delegates.
- (E) Assessments against contractors. Any contractor, subcontractor, or person functioning as a contractor shall be subject to a notice of violation and assessment of a civil penalty in accordance with Paragraph (f) of this Rule. Such penalty shall be in addition to that assessed against the landowner. When a penalty is being doubled pursuant to Part (D) of this Subparagraph and the element of willfulness is present only on the part of the contractor, the landowner shall be assessed the standard penalty and the contractor shall be assessed the doubled penalty.
- (F) Assessments for Continuing violations.
- (i) Pursuant to G.S. 113A-126(d)(2), each day that the violation continues after the date specified in the notice of violation for the unauthorized activity to cease or restoration to be completed shall be considered a separate violation and shall be assessed an additional penalty.
 - (ii) Refusal or failure to restore a damaged area as as directed in the restoration order shall be considered a continuing violation and shall be assessed an additional penalty. When resources continue to be affected by the violation, the amount of the penalty shall be determined according to Part (B) of this

Subparagraph. The continuing penalty period shall be calculated from the date specified in the restoration order which accompanies the notice of violation for the unauthorized activity to cease or restoration to be completed and run until:

- (I) the Division determines that the terms of the restoration order are satisfied;
- (II) the respondent enters into negotiations with the Division; or
- (III) the respondent contests the Division's order in a judicial proceeding.

The continuing penalty period shall resume if the respondent terminates negotiations without reaching an agreement with the Division, fails to comply with court ordered restoration, or fails to meet a deadline for restoration that was negotiated with the Division.

- (2) Pursuant to G.S. 113A-126(d)(2), penalties for minor development violations, including

violations of permit conditions, shall be assessed as follows:

- (A) Minor development that could have been permitted under the Commission's rules at the time the notice of violation is issued shall be assessed a penalty equal to two times the relevant CAMA permit application fee, plus investigative costs.
- (B) Minor development that could not have been permitted under the Commission's rules at the time the notice of violation is issued shall be assessed an amount equal to the relevant CAMA permit application fee as set forth in Rule .0204 of this Subchapter, plus a penalty pursuant to Schedule B of this Rule, plus investigative costs. If a violation affects more than one area of environmental concern (AEC) or coastal resource as listed within Schedule B of this Rule, the penalties for each affected AEC shall be combined. Any structure or part of a structure that is constructed in violation of existing Commission rules shall be removed or modified as necessary to bring the structure into compliance with the Commission's rules.

SCHEDULE B

Penalties for Minor Development Permit Violations By Size of Violation

Area of Environmental Concern Affected	Size of Violation (sq. ft.)										
	≤ 100	101-500	501-1,000	1001-3000	3001-5000	5001-8000	8001-11,000	11,001 - 15,000	15,001 - 20,000	20,001 - 25,000	>25,000
Coastal Shorelines	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000
ORW- Adjacent Areas	\$125	\$150	\$175	\$225	\$275	\$350	\$425	\$375	\$250	\$125	n/a
Ocean Hazard System (1)(2)	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000
Primary or Frontal Dune	\$125	\$150	\$175	\$225	\$275	\$350	\$425	\$375	\$250	\$125	n/a
Public Water Supplies (3)	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000
Natural and Cultural Resource Areas (4)	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000

- (1) Includes the Ocean Erodible, Inlet Hazard Area, and Unvegetated Beach Area.
- (2) If the AEC physically overlaps another AEC, use the greater penalty schedule.
- (3) Includes Small Surface Water Supply, Watershed and Public Water Supply Well Fields.
- (4) Includes Coastal Complex Natural Areas, Coastal Areas Sustaining Remnant Species, Unique Geological Formations, Significant Coastal Archaeological Resources, and Significant Coastal Historical Architectural Resources.
- (C) Violations by public agencies (e.g. towns, counties and state agencies) shall be handled by the local permit officer or one of the Commission's delegates within their respective jurisdictions except that in no case shall a local permit officer handle a violation committed by the local government they represent. Penalties shall be assessed in accordance with Parts (A) and (B) of this Subparagraph.
- (D) Willful and intentional violations. The penalty assessed under Parts (A) and (B) of this Subparagraph shall be doubled for willful and intentional violations except that the doubled penalties assessed under this Subparagraph shall not exceed one thousand dollars (\$1,000.00) for each separate violation. For the purposes of G.S. 113A-126(d)(2), the following actions shall be considered willful and intentional:
 - (i) the person received written instructions from the local permit officer or one of the Commission's delegates that a permit would be required for the development and subsequently undertook development without a permit;
 - (ii) the person received written instructions from the local permit officer or one of the Commission's delegates that the proposed development was not permissible under the Commission's rules, or received denial of a permit application for the proposed activity, and subsequently undertook the development without a permit;
- (iii) the person committed previous violations of the Commission's rules; or
- (iv) the person refused or failed to restore a damaged area as ordered by the local permit officer or one of the Commission's delegates.
- (E) Assessments against contractors. Any contractor, subcontractor, or person functioning as a contractor shall be subject to a notice of violation and assessment of a civil penalty in accordance with Paragraph (f) of this Rule. Such penalty shall be in addition to that assessed against the landowner. When a penalty is being doubled pursuant to Part (D) of this Subparagraph and the element of willfulness is present only on the part of the contractor, the landowner shall be assessed the standard penalty and the contractor shall be assessed the doubled penalty.
- (F) Assessments of Continuing violations.
 - (i) Pursuant to G.S. 113A-126(d)(2), each day that the violation continues after the date specified in the notice of violation for the unauthorized activity to cease and restoration to be completed shall be considered a separate violation and shall be assessed an additional penalty.
 - (ii) Refusal or failure to restore a damaged area as directed in the restoration order shall be considered a continuing violation and shall be assessed an additional penalty. The amount of the penalty shall be determined according to Part (B) of this Subparagraph. The continuing penalty period shall be calculated from the date specified in the restoration order which accompanies the notice of violation for the unauthorized activity to cease and restoration to be completed and run until:
 - (I) the Division determines that the terms of the

restoration order are satisfied;

- (II) the respondent enters into negotiations with the local permit officer or the Division; or
- (III) the respondent contests the local permit officer's or the Division's order in a judicial proceeding.

The continuing penalty period shall resume if the respondent terminates negotiations without reaching an agreement with the local permit officer or the Division, fails to comply with court ordered restoration, or fails to meet a deadline for restoration that was negotiated with the local permit officer or the Division.

(g) Reports to the Commission. Action taken by the Director shall be reported to the Commission at the next regularly scheduled Commission meeting. Such reports shall include information on the following:

- (1) respondent(s) against whom penalties have been assessed;
- (2) respondent(s) who have paid a penalty, requested remission, or requested an administrative hearing;
- (3) respondent(s) who have failed to pay; and
- (4) cases referred to the Attorney General for collection.

(h) Settlements. The Commission hereby delegates to the Director the authority to enter into a settlement of an appeal of a civil penalty at any time prior to the issuance of a decision by the administrative law judge in a contested case under G.S. 150B-23, and shall not require the approval of the Commission. Any settlement agreement proposed subsequent to the issuance of a decision by the administrative law judge in a contested case under G.S. 150B-23 shall be submitted to the Commission for approval.

History Note: Authority G.S. 113A-124; 113A-126(d); Eff. January 24, 1980; ARRC Objection August 18, 1988; Amended Eff. January 1, 1989; November 1, 1986; November 1, 1984; ARRC Objection Lodged Eff. January 18, 1991; Amended Eff. September 1, 2019; February 1, 2008; July 1, 1991; June 1, 1991.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 02 – BOARD OF ARCHITECTURE

21 NCAC 02 .0211

UNAUTHORIZED PRACTICE

History Note: Authority G.S. 83A-1(7); 83A-6; 83A-10; 83A-12; 83A-13; 83A-17; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. December 1, 1991; May 1, 1989; November 1, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Repealed Eff. September 1, 2019.

CHAPTER 12 – LICENSING BOARD FOR GENERAL CONTRACTORS

21 NCAC 12 .0201

DEFINITIONS

The following definitions shall apply to the Rules in this Chapter:

- (1) Completion: As used in G.S. 87-1(b), occurs upon issuance of a certificate of occupancy by the permitting authority with jurisdiction over the project.
- (2) Cost of the undertaking: As used in G.S. 87-1(a), means the final price of a project, excluding the cost of land, as evidenced by the contract, or in the absence of a contract, permit records, invoices, and cancelled checks.
- (3) Personally: As used in G.S. 87-14(a)(1), "personally" means the physical presence of the owner of the property and excludes the use of a power of attorney.
- (4) Solely for occupancy: As used in G.S. 87-1(b), "solely for occupancy" is restricted to the family of a person, the officers and shareholders of a firm or corporation, and guests and social invitees where no consideration is received. For purposes of G.S. 87-1(b)(2), "family" is defined as a spouse or other family member living in the same household.
- (5) Value: As used in G.S. 87-10(a1), means the same as "cost of the undertaking."

History Note: Authority G.S. 87-1, 87-10, and 87-14; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. January 1, 1983; Repealed Eff. May 1, 1989; Codifier approved agency's waiver request to reuse rule number; Eff. September 1, 2019.

21 NCAC 12 .0202

CLASSIFICATION

(a) A general contractor shall be certified in one of the following five classifications:

- (1) Building Contractor. This classification covers all building construction and demolition activity including: commercial, industrial, institutional, and all residential building construction. It includes parking decks; all site

- work, grading and paving of parking lots, driveways, sidewalks, and gutters; storm drainage, retaining or screen walls, and hardware and accessory structures; and indoor and outdoor recreational facilities including natural and artificial surface athletic fields, running tracks, bleachers, and seating. It also covers work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Marine Construction), S(Masonry Construction), S(Roofing), S(Metal Erection), S(Swimming Pools), and S(Asbestos), and S(Wind Turbine).
- (2) Residential Contractor. This classification covers all construction and demolition activity pertaining to the construction of residential units that are required to conform to the residential building code adopted by the Building Code Council pursuant to G.S. 143-138; all site work, driveways, sidewalks, and water and wastewater systems ancillary to the aforementioned structures and improvements; and the work done as part of such residential units under the specialty classifications of S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), S(Swimming Pools), and S(Asbestos).
- (3) Highway Contractor. This classification covers all highway construction activity including: grading, paving of all types, installation of exterior artificial athletic surfaces, relocation of public and private utility lines ancillary to a principal project, bridge construction and repair, culvert construction and repair, parking decks, sidewalks, curbs, gutters and storm drainage. It also includes installation and erection of guard rails, fencing, signage and ancillary highway hardware; covers paving and grading of airport and airfield runways, taxiways, and aprons, including the installation of fencing, signage, runway lighting and marking; and work done under the specialty classifications of S(Boring and Tunneling), S(Concrete Construction), S(Marine Construction), S(Railroad Construction), and H(Grading and Excavating).
- (4) Public Utilities Contractor. This classification includes operations that are the performance of construction work on water and wastewater systems and on the subclassifications of facilities set forth in G.S. 87-10(b)(3). The Board shall issue a license to a public utilities contractor that is limited to any of the subclassifications set forth in G.S. 87-10(b)(3) for which the contractor qualifies. A public utilities contractor license covers work done under the specialty classifications of S(Boring and Tunneling), PU(Communications), PU(Fuel Distribution), PU(Electrical-Ahead of Point of Delivery), PU(Water Lines and Sewer Lines), PU(Water Purification and Sewage Disposal), and S(Swimming Pools).
- (5) Specialty Contractor. This classification covers all construction operation and performance of contract work outlined as follows:
- (A) H(Grading and Excavating). This classification covers the digging, moving, and placing of materials forming the surface of the earth, excluding air and water, in such a manner that the cut, fill, excavation, grade, trench, backfill, or any similar operation may be executed with the use of hand and power tools and machines used for these types of digging, moving, and material placing. It covers work on earthen dams and the use of explosives used in connection with all or any part of the activities described in this Subparagraph. It also includes clearing and grubbing, and erosion control activities.
- (B) S(Boring and Tunneling). This classification covers the construction of underground or underwater passageways by digging or boring through and under the earth's surface, including the bracing and compacting of such passageways to make them safe for the purpose intended. It includes preparation of the ground surfaces at points of ingress and egress.
- (C) PU (Communications). This classification covers the installation of the following:
- (i) all types of pole lines, and aerial and underground distribution cable for telephone systems;
 - (ii) aerial and underground distribution cable for cable TV and master antenna TV systems capable of transmitting R.F. signals;
 - (iii) underground conduit and communication cable including fiber optic cable; and
 - (iv) microwave systems and towers, including foundations and excavations where required, when the microwave systems are being used for the purpose of transmitting R.F. signals; and

- installation of PCS or cellular telephone towers and sites.
- (D) S(Concrete Construction). This classification covers the construction, demolition, and installation of foundations, pre-cast silos, and other concrete tanks or receptacles, prestressed components, and gunite applications, but excludes bridges, streets, sidewalks, curbs, gutters, driveways, parking lots, and highways.
- (E) PU(Electrical-Ahead of Point of Delivery). This classification covers the construction, installation, alteration, maintenance, or repair of an electrical wiring system, including sub-stations or components thereof, which is or is intended to be owned, operated, and maintained by an electric power supplier, such as a public or private utility, a utility cooperative, or any other properly franchised electric power supplier, for the purpose of furnishing electrical services to one or more customers.
- (F) PU(Fuel Distribution). This classification covers the construction, installation, alteration, maintenance, or repair of systems for distribution of petroleum fuels, petroleum distillates, natural gas, chemicals, and slurries through pipeline from one station to another. It includes all excavating, trenching, and backfilling in connection therewith. It covers the installation, replacement, and removal of above ground and below ground fuel storage tanks.
- (G) PU(Water Lines and Sewer Lines). This classification covers construction work on water and sewer mains, water service lines, and house and building sewer lines, as defined in the North Carolina State Building Code, and covers water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift stations and pumping stations. It includes pavement patching, backfill, and erosion control as part of construction.
- (H) PU(Water Purification and Sewage Disposal). This classification covers the performance of construction work on water and wastewater systems; water and wastewater treatment facilities; and all site work, grading, and paving of parking lots, driveways, sidewalks, and curbs and gutters that are ancillary to such construction of water and wastewater treatment facilities. It covers the work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), and S(Metal Erection) as part of the work on water and wastewater treatment facilities.
- (I) S(Insulation). This classification covers the installation, alteration, or repair of materials classified as insulating media used for the non-mechanical control of temperatures in the construction of residential and commercial buildings. It does not include the insulation of mechanical equipment, and ancillary lines and piping.
- (J) S(Interior Construction). This classification covers the installation and demolition of acoustical ceiling systems and panels, load bearing and non-load bearing partitions, lathing and plastering, flooring and finishing, interior recreational surfaces, window and door installation, and installation of fixtures, cabinets, and millwork. It includes the removal of asbestos and replacement with non-toxic substances.
- (K) S(Marine Construction). This classification covers all marine construction and repair activities and all types of marine construction and demolition in deep-water installations and in harbors, inlets, sounds, bays, and channels; it covers dredging, construction, and installation of pilings, piers, decks, slips, docks, and bulkheads. It does not include structures required on docks, slips, and piers.
- (L) S(Masonry Construction). This classification covers the demolition and installation, with or without the use of mortar or adhesives, of the following:
- (i) brick, concrete block, gypsum partition tile, pumice block, or other lightweight and facsimile units and products common to the masonry industry;

- (ii) installation of fire clay products and refractory construction; and
 - (iii) installation of rough cut and dressed stone, marble panels and slate units, and installation of structural glazed tile or block, glass brick or block, and solar screen tile or block.
- (M) S(Railroad Construction). This classification covers the building, construction, and repair of railroad lines including:
 - (i) the clearing and filling of rights-of-way;
 - (ii) shaping, compacting, setting, and stabilizing of road beds;
 - (iii) setting ties, tie plates, rails, rail connectors, frogs, switch plates, switches, signal markers, retaining walls, dikes, fences, and gates; and
 - (iv) construction and repair of tool sheds and platforms.
- (N) S(Roofing). This classification covers the installation, demolition, and repair of roofs and decks on residential, commercial, industrial, and institutional structures requiring materials that form a water-tight and weather-resistant surface. The term "materials" for purposes of this Subparagraph includes cedar, cement, asbestos, clay tile and composition shingles, all types of metal coverings, wood shakes, single ply and built-up roofing, protective and reflective roof and deck coatings, sheet metal valleys, flashings, gravel stops, gutters and downspouts, and bituminous waterproofing.
- (O) S(Metal Erection). This classification covers:
 - (i) the field fabrication, demolition, erection, repair, and alteration of architectural and structural shapes, plates, tubing, pipe and bars, not limited to steel or aluminum, that are or may be used as structural members for buildings, equipment, and structure; and
 - (ii) the layout, assembly and erection by welding, bolting, riveting, or fastening in any manner metal products as curtain walls, tanks of all types, hoppers, structural members for buildings, towers, stairs, conveyor frames, cranes and crane runways, canopies, carports, guard rails, signs, steel scaffolding as a permanent structure, rigging, flagpoles, fences, steel and aluminum siding, bleachers, fire escapes, and seating for stadiums, arenas, and auditoriums.
- (P) S(Swimming Pools). This classification covers the construction, demolition, service, and repair of all swimming pools. It includes:
 - (i) excavation and grading;
 - (ii) construction of concrete, gunite, and plastic-type pools, pool decks, and walkways, and tiling and coping; and
 - (iii) installation of all equipment including pumps, filters, and chemical feeders. It does not include direct connections to a sanitary sewer system or to portable water lines, nor the grounding and bonding of any metal surfaces or the making of any electrical connections.
- (Q) S(Asbestos). This classification covers renovation or demolition activities involving the repair, maintenance, removal, isolation, encapsulation, or enclosure of Regulated Asbestos Containing Materials (RACM) for any commercial, industrial, or institutional building, whether public or private. It also covers all types of residential building construction involving RACM during renovation or demolition activities. This specialty is required only when the cost of asbestos activities as described herein are equal to or exceed thirty thousand dollars (\$30,000).
- (R) S(Wind Turbine). This classification covers the construction, demolition, installation, and repair of wind turbines, wind generators, and wind power units. It includes assembly of blades, generator, turbine structures, and towers. It also includes ancillary foundation work, field fabrication of

metal equipment, and structural support components.

(b) An applicant may be licensed in more than one classification of general contracting provided the applicant meets the qualifications for the classifications, which includes passing the examinations for the classification requested by the applicant. The license granted to an applicant who meets the qualifications for all of the classifications set forth in the rules of this Section shall be designated "unclassified."

History Note: Authority G.S. 87-1; 87-4; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. June 1, 1994; June 1, 1992; May 1, 1989; January 1, 1983; Temporary Amendment Eff. February 18, 1997; Amended Eff. April 1, 2014; June 1, 2011; September 1, 2009; April 1, 2004; April 1, 2003; August 1, 2002; April 1, 2001; August 1, 2000; August 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. September 1, 2019; April 1, 2018.

21 NCAC 12 .0204 LICENSE LIMITATIONS; ELIGIBILITY

(a) All licenses shall have an appropriate limitation as set forth in this Rule.

(b) Limited License. The applicant for a limited license shall:

- (1) meet the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- (2) have current assets that exceed the total current liabilities by at least seventeen thousand dollars (\$17,000) or have a total net worth of at least eighty thousand dollars (\$80,000);
- (3) pass the examination which shall contain subject matter related to the specific contracting classification chosen by the applicant with a score as set out in Rule .0404 of this Chapter; and
- (4) if the applicant or any owner, principal, or qualifier is in bankruptcy or has been in bankruptcy within five years prior to the filing of the application, provide to the Board an agreed-upon procedures report on a form provided by the Board or an audited financial statement with a classified balance sheet as part of the application. This requirement shall not apply to shareholders of an applicant that is a publicly traded corporation.

(c) Intermediate License. The applicant for an intermediate license shall:

- (1) meet the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- (2) have current assets that exceed the total current liabilities by at least seventy-five thousand dollars (\$75,000), as reflected in an agreed-upon procedures report on a form provided by the Board or an audited financial statement prepared by a certified public accountant or an

independent accountant who is engaged in the public practice of accountancy; and

- (3) pass the examination which shall contain subject matter related to the specific contracting classification chosen by the applicant with a score as set out in Rule .0404 of this Chapter.

(d) Unlimited License. The applicant for an unlimited license shall:

- (1) meet the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- (2) have current assets that exceed the total current liabilities by at least one hundred fifty thousand dollars (\$150,000), as reflected in an agreed-upon procedures report on a form provided by the Board or an audited financial statement prepared by a certified public accountant or an independent accountant who is engaged in the public practice of accountancy;
- (3) pass the examination which shall contain subject matter related to the specific contracting classification chosen by the applicant with a score as set out in Rule .0404 of this Chapter.

(e) Surety Bonds. In lieu of demonstrating the level of working capital as required in Subparagraphs (c)(2) and (d)(2) of this Rule or net worth under Subparagraph (b)(2) of this Rule, an applicant may obtain a surety bond from a surety authorized to transact surety business in North Carolina pursuant to G.S. 58 Articles 7, 16, 21, or 22. The surety shall maintain a rating from A.M. Best, or its successor rating organization, of either Superior (A++ or A+) or Excellent (A or A-). The bond shall be continuous in form and shall be maintained in effect for as long as the applicant maintains a license to practice general contracting in North Carolina or until the applicant demonstrates the required level of working capital as required by Subparagraphs (c)(2) and (d)(2) of this Rule. The applicant shall submit proof of a surety bond meeting the requirements of this Rule with the application form and subsequent annual license renewal forms. The applicant shall maintain the bond in the amount of one hundred seventy-five thousand dollars (\$175,000) for a limited license, five hundred thousand dollars (\$500,000) for an intermediate license, and one million dollars (\$1,000,000) for an unlimited license. The bond shall list the State of North Carolina as obligee and be for the benefit of any person who is damaged by an act or omission of the applicant constituting breach of a construction contract, breach of a contract for the furnishing of labor, materials, or professional services to construction undertaken by the applicant, or by an unlawful act or omission of the applicant in the performance of a construction contract. The bond required by this Rule shall be in addition to and not in lieu of any other bond required of the applicant by law, regulation, or any party to a contract with the applicant. Should the surety cancel the bond, the surety and the applicant both shall notify the Board within 30 days in writing. If the applicant fails to provide written proof of financial responsibility in compliance with this Rule within 30 days of the bond's cancellation, then the applicant's license shall be suspended until written proof of compliance is provided.

(f) Financial statements, accounting, and reporting standards. Financial statements submitted by applicants to the Board shall be no older than twelve months from the date of submission.

Financial statements shall conform to United States "generally accepted accounting principles" (GAAP). The Board may require non-GAAP financial statements from applicants wherein the only exception to GAAP is that such presentation is necessary to ascertain the working capital or net worth of the particular applicant. Examples of the circumstances when non-GAAP presentation may be necessary to ascertain the working capital or net worth of the applicant shall be when the only exception to GAAP is that assets and liabilities are classified as "current" and "noncurrent" on personal financial statements and when the only exception to GAAP is that the particular applicant is not combined with a related entity into one financial statement pursuant to AICPA Financial Interpretation 46R (ASC 810). The terminologies, working capital, balance sheet with current and fixed assets, current and long term liabilities, and any other accounting terminologies, used herein shall be construed in accordance with GAAP Standards as promulgated by the Financial Accounting Standards Board (FASB). The terminologies, audited financial statement, unqualified opinion, and any other auditing terminologies used herein shall be construed in accordance with those standards referred to as "generally accepted auditing standards" (GAAS) as promulgated by the American Institute of Certified Public Accountants (AICPA).

History Note: Authority G.S. 87-1; 87-4; 87-10; 87-15.1; Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. January 1, 1983;
ARRC Objection March 19, 1987;
Amended Eff. May 1, 1989; August 1, 1987;
Temporary Amendment Eff. June 28, 1989 for a Period of 155 Days to Expire on December 1, 1989;
Amended Eff. December 1, 1989;
Temporary Amendment Eff. May 31, 1996;
RRC Removed Objection Eff. October 17, 1996;
Amended Eff. August 1, 1998; April 1, 1997;
Temporary Amendment Eff. August 24, 1998;
Amended Eff. April 1, 2014; April 1, 2013; August 1, 2008; April 1, 2006; March 1, 2005; August 1, 2002; April 1, 2001; August 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;
Amended Eff. September 1, 2019; April 1, 2018.

21 NCAC 12 .0205 QUALIFIER

(a) The qualifier for the applicant shall be a responsible managing employee, officer, or member of the personnel of the applicant. A person may serve as a qualifier for no more than two licenses. A qualifier's examination credentials shall archive if the qualifier does not serve as a qualifier for an active licensee for a period of four consecutive years. Once a qualifier's examination credentials archive, he or she shall retake the examination and earn a passing grade in accordance with Rule .0404 of this Chapter to serve as a qualifier.

(b) Subject to the provisions of G.S. 150B and Section .0800 of these Rules, the Board may reject the application of an applicant seeking qualification by employment of a person who has already

passed an examination if such person has previously served as qualifier for a licensee that has been disciplined by the Board.

(c) A licensee shall notify the Board in writing in the event a qualifier ceases to be connected with the licensee. The notice shall include the date on which the qualifier was last connected with the licensee and shall be submitted no later than 10 days after the date of separation. A qualifier shall also be required to notify the Board in writing in such circumstances. After such notice is filed with the Board in writing, or the Board determines that the qualifier is no longer connected with the licensee, and if there are no additional qualifiers for the licensee, the license shall be invalidated in accordance with G.S. 87-10.

(d) Persons associated with a firm or corporation may take the required examination on behalf of the firm or corporation as described in G.S. 87-10. A partner may take an examination on behalf of a partnership.

(e) "Responsible managing" as used in G.S. 87-10 means a person who is engaged in the work of the applicant a minimum of 20 hours per week or a majority of the hours operated by the applicant, whichever is less. If the person described herein is not an owner, officer, or partner of the applicant or licensee, the person must be a W-2 employee.

(f) "Members of the personnel" as used in G.S. 87-10 means a person who is a responsible managing employee of the applicant or licensee. A member of the personnel must be a W-2 employee and shall not be an independent contractor of the applicant or licensee.

(g) An applicant or licensee may have more than one qualifier. If one person associated with the applicant fails, and another passes, the license shall be granted to that applicant. A license shall be issued only in the classification held by a qualifier who has passed an examination in that classification.

History Note: Authority G.S. 87-1; 87-4; 87-10; 87-11(a); Eff. February 1, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 2014; July 1, 2008; April 1, 2006; August 1, 2000; June 1, 1994; June 1, 1992; May 1, 1989; July 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;
Amended Eff. September 1, 2019; September 1, 2018; April 1, 2018.

21 NCAC 12 .0303 APPLICATION FOR LICENSURE

(a) General. Applications for licensure shall contain the following:

- (1) the Social Security Number of examinee(s) and qualifier(s) and tax identification numbers for corporate applicants;
- (2) the applicant's contact information;
- (3) the name of business under which the licensee will be operating, if any;
- (4) requested designation of license limitation and classifications;
- (5) information about all crimes of which the applicant has been convicted;

- (6) certified copies of court records reflecting information regarding all crimes of which the applicant and qualifier(s) have been convicted;
- (7) information indicating whether the applicant or qualifier(s) has any disciplinary history with the Board or any other occupational licensing, registration, or certification agency;
- (8) information establishing financial responsibility as required by G.S. 87-10(a) and Rule .0204 of this Chapter;
- (9) letters of reference as prescribed in Rule .0308 of this Chapter; and
- (10) the application fee as set forth in Rule .0304 of this Chapter.

(b) Reciprocity. Applicants based on reciprocity shall submit with the application form a copy of the applicant's license in the other state, certified by the other state licensing board as being a copy of a valid license. Applicants shall have taken and passed the exam offered in the state from which they are seeking reciprocity, or an examination offered by the National Association of State Contractors Licensing Agencies (NASCLA). Applicants shall also be required to take and pass the Board's North Carolina law, rule, and building code examination prior to licensure.

History Note: Authority G.S. 87-1; 87-10;

Eff. February 1, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. May 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Amended Eff. September 1, 2019; April 1, 2018.

21 NCAC 12 .0308 CHARACTER REFERENCES

(a) Each applicant shall submit to the Board three written evaluations of the applicant as to the character reference's knowledge of and experience with the applicant. If the applicant is a legal entity, character references shall be submitted for all individuals who sign the application on behalf of the applicant. If the applicant is a sole proprietorship, character references shall be for the applicant itself.

(b) All character references shall include:

- (1) name of the person submitting the reference;
- (2) mailing address, phone number, and email address of the person submitting the reference;
- (3) date of the reference; and
- (4) information regarding the reference's knowledge of and experience with the applicant or person about whom the reference is being provided.

(c) Character references shall be completed and dated no more than 12 months prior to the date the reference is submitted to the Board.

History Note: Authority G.S. 87-1; 87-10;

Eff. February 1, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. May 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Amended Eff. September 1, 2019.

21 NCAC 12 .0402 SUBJECT MATTER

(a) Examinations for licensure shall ascertain the following:

- (1) The criteria set out in G.S. 87-10(b); and
- (2) The qualifiers's knowledge of the practice of general contracting within the specific classification(s) he or she is seeking to be qualified as described in Rule .0202 of this Chapter.

(b) As a part of the Board's examination process, all applicants, including those seeking reciprocity from other jurisdictions, shall be tested on the Board's laws and rules.

History Note: Authority G.S. 87-1; 87-10;

Eff. February 1, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. August 1, 2000; June 1, 1994; May 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Repealed Eff. April 1, 2018;

Codifier approved agency's waiver request to reuse rule number; Eff. September 1, 2019.

21 NCAC 12 .0501 LICENSE GRANTED

- (a) License numbers shall be included on all contracts and bids.
- (b) If a licensee files Articles of Dissolution or the N.C. Department of the Secretary of State withdraws the licensee's Certificate of Authority, the Board shall archive the license.

History Note: Authority G.S. 87-1; 87-10; 87-12;

Eff. February 1, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. May 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Amended Eff. September 1, 2019; April 1, 2018.

21 NCAC 12 .0503 RENEWAL OF LICENSE

(a) Applications for renewal of license shall contain the following:

- (1) the Social Security Number of the applicant and qualifier(s) and tax identification number for corporations, LLCs, or partnerships;
- (2) the applicant's contact information;
- (3) the name of business under which licensee will be operating, if any;
- (4) information regarding any changes made in the status of the licensee's business, since the initial application or last renewal was submitted to the Board, whichever is later;
- (5) confirmation of license limitation and classifications;
- (6) information about all crimes of which the applicant has been convicted since the initial application or last renewal was submitted to the Board, whichever is later;
- (7) documentation regarding all crimes referenced above;

- (8) information indicating whether the applicant has any disciplinary history with any other occupational licensing, registration, or certification agency since the initial application or last renewal was submitted to the Board, whichever is later;
- (9) an attestation that the applicant maintains continued financial responsibility pursuant to Rule .0204 of this Chapter;
- (10) if applicable, proof that the surety bond is maintained in compliance with Rule .0204 of this Chapter; and
- (11) the application fee and any accrued late fees as set forth in Rule .0304 of this Chapter.

(b) A licensee shall submit an audited financial statement as evidence of continued financial responsibility in accordance with Rule .0204 of this Chapter if the Board finds that the licensee is insolvent, financially unstable, or unable to meet its financial responsibilities based upon the information provided in the renewal application.

(c) A licensee shall provide the Board with a copy of any bankruptcy petition filed by the licensee within 30 days of its filing. A licensee in bankruptcy shall provide to the Board an agreed-upon procedures report on a form provided by the Board or an audited financial statement with a classified balance sheet as part of any application for renewal.

(d) A corporate license shall not be renewed unless it is in good standing with the N.C. Department of the Secretary of State.

(e) Upon receipt of a written request by or on behalf of a licensee who is currently in good standing with the Board, is serving in the armed forces of the United States, and to whom G.S. 105-249.2 grants an extension of time to file a tax return, the Board shall grant that same extension of time for complying with renewal application deadlines, for paying renewal fees, and for meeting any other requirement or conditions related to the maintenance or renewal of the license issued by the Board. The applicant shall furnish to the Board a copy of the military orders or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue.

History Note: Authority G.S. 87-1; 87-4; 87-10; 87-12; 87-13; 93B-15;

Eff. February 1, 1976;

Readopted Eff. September 26, 1977;

ARRC Objection March 19, 1987;

Amended Eff. May 1, 1989; August 1, 1987;

Temporary Amendment Eff. June 28, 1989 for a period of 155 Days to Expire on December 1, 1989;

Amended Eff. December 1, 1989;

RRC Removed Objection of March 19, 1987 Eff. August 20, 1992 based on subsequent amendment;

Amended Eff. September 1, 1992;

Temporary Amendment Eff. May 31, 1996;

Amended Eff. April 1, 2014; June 1, 2011; June 1, 2003; April 1, 2003; August 1, 2002; April 1, 1997;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Amended Eff. September 1, 2019; April 1, 2018.

21 NCAC 12 .0903 APPLICATION FOR PAYMENT

(a) Homeowners meeting the requirements of G.S. 87-15.8 who wish to file for reimbursement from the Homeowners Recovery Fund shall provide the following information on an application prescribed by the Board:

- (1) the applicant's name and address,
- (2) the amount of the claim,
- (3) a description of the acts of the general contractor which constitute the grounds for the claim, and
- (4) a statement that the applicant has exhausted all civil remedies or the general contractor has filed for bankruptcy.

Requests for the application form shall be directed to the Board at the address shown in Rule .0101 of this Chapter.

(b) If the applicant has exhausted all civil remedies pursuant to G.S. 87-15.8(3)(a), the application shall include certified copies of the complaint, judgment, and return of execution marked as "unsatisfied."

(c) If the applicant is claiming against a general contractor that was a corporation dissolved no later than one year after the date of discovery by the applicant of the facts constituting the dishonest or incompetent conduct, then the applicant shall include certified copies of documents evidencing the dissolution.

(d) If the applicant has been precluded from filing suit, obtaining a judgment, or otherwise proceeding due to the bankruptcy of the general contractor, then the applicant shall submit a certified copy of the bankruptcy petition, any proof of claim, and documents from the bankruptcy court or trustee certifying that the applicant has not and will not receive any payment from the bankruptcy proceeding.

(e) If the applicant is claiming against the estate of a deceased general contractor, then the applicant shall submit a statement from the administrator of the estate certifying that the applicant has not and will not receive any payment from the estate.

(f) If the applicant includes copies of a judgment and return of execution marked as unsatisfied, the applicant must demonstrate that the writ of execution was filed in the following counties:

- (1) where the project at issue was located;
- (2) where the contractor's last known principal place of business was located; and
- (3) if the contractor was a licensee of the Board, the county in which the last address provided to the Board was located.

History Note: Authority G.S. 87-15.6; 87-15.7; 87-15.8;

Eff. January 4, 1993;

Amended Eff. March 1, 2005; August 1, 1998;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Amended Eff. September 1, 2019.

CHAPTER 19 – BOARD OF ELECTROLYSIS EXAMINERS

21 NCAC 19 .0201 FEES

- (a) The following fees are payable to the Board for licensure as an electrologist:
- | | | |
|-----|---------------------------|----------|
| (1) | Application for licensure | \$150.00 |
| (2) | Initial licensure | \$125.00 |
| (3) | Renewal of licensure | \$125.00 |
- (b) The following fees are payable to the Board for licensure as a laser hair practitioner:
- | | | |
|-----|---------------------------|----------|
| (1) | Application for licensure | \$125.00 |
| (2) | Initial licensure | \$125.00 |
| (3) | Renewal of licensure | \$150.00 |
- (c) The following fees are payable to the Board for certification as an instructor:
- | | | |
|-----|----------------------------------------------------|----------|
| (1) | Application for Electrology instructor | \$150.00 |
| (2) | Renewal of Electrology instructor | \$125.00 |
| (3) | Application for laser hair practitioner instructor | \$150.00 |
| (4) | Renewal of laser hair practitioner instructor | \$125.00 |
- (d) The following fees are payable to the Board for certification as a Board approved school:
- | | | |
|-----|---------------------------------------------------------------------------------------------|----------|
| (1) | IN STATE SCHOOL | |
| | (A) Application for certification as an Electrology school | \$250.00 |
| | (B) Renewal of certification as an Electrology school | \$150.00 |
| | (C) Application for certification as a laser, light source, or pulse light treatment school | \$250.00 |
| | (D) Renewal of certification for a laser, light source, or pulse light treatment school | \$150.00 |
| (2) | OUT-OF-STATE SCHOOL | |
| | (A) Application for certification as an Electrology school | \$400.00 |
| | (B) Initial certification as an Electrology school | \$100.00 |
| | (C) Renewal of certification for an Electrology school | \$100.00 |
| | (D) Application for certification as a laser, light source, or pulse light treatment school | \$350.00 |
| | (E) Initial certification as a laser, light source, or pulse light treatment school | \$75.00 |
| | (F) Renewal of certification as a laser, light source, or pulse light treatment school | \$100.00 |
- (e) The following other fees are payable to the Board:
- | | | |
|-----|------------------------------------------------------------------|----------|
| (1) | Electrologist Examination or reexamination | \$125.00 |
| (2) | Office inspection or re-inspection | |
| | (A) Electrologist – per licensee, for each office site | \$100.00 |
| | (B) Laser Hair Practitioner – per licensee, for each office site | \$100.00 |
| (3) | License by reciprocity | \$125.00 |
| (4) | Late renewal charge | \$50.00 |
| (5) | Reinstatement of expired license | \$250.00 |
| (6) | Reinstatement of instructor licensure | \$250.00 |
| (7) | Reactivation of license | \$150.00 |
| (8) | Reactivation of instructor licensure | \$150.00 |
| (9) | Duplicate license | \$25.00 |

(f) All fees shall be paid by check or money order, made payable to "The North Carolina Board of Electrolysis Examiners."

(g) Renewal fees required for Subparagraphs (a)(3), (b)(3), (c)(2), (c)(4), (e)(2), and (e)(9) of this Rule shall be waived for licensees under this Chapter that are exempt from renewal fees under G.S. 93B-15.

History Note: Authority G.S. 88A-9; 93B-15;
Temporary Adoption Eff. December 1, 1991 for a period of 62 days to expire on February 1, 1992;
Eff. January 1, 1992;
Temporary Amendment Eff. September 17, 2001;

Amended Eff. September 1, 2015; October 9, 2010; December 4, 2002;

Readopted Eff. September 1, 2019.

21 NCAC 19 .0202 APPLICATION FOR LICENSURE

(a) All applicants for licensure as an electrologist shall submit an application on the form provided by the Board (available online at www.ncbee.com), accompanied by proof of being 21 years of age, a passport acceptable photograph (see photo requirements for U.S. passports at <https://travel.state.gov>) taken within the past two years, the required application fee, as set forth in Rule .0201 of

this Section, any information required by Paragraphs (b), (c), and (d) of this Rule, and certification of completion from each electrology and laser institution attended with verification of the number of hours completed in theory and clinical training. The Initial Electrolysis License Application may be obtained by contacting the Board or accessing it online at www.ncbee.com.

(b) All applications for licensure under G.S. 88A-11(2) shall be accompanied by:

- (1) the address of the licensing agency in the other state or jurisdiction;
- (2) any information such as a license number needed to identify the applicant in correspondence with that agency; and
- (3) a statement authorizing that agency to certify to the Board that the applicant is currently licensed or certified by the other state or jurisdiction and is in good standing, to inform the Board whether there are any pending complaints about the applicant, and to provide the Board with a copy of the licensing requirements in that state or jurisdiction.

(c) Proof of age shall be shown by certified copy of a birth certificate. If the applicant cannot obtain a certified copy of the birth certificate, the applicant shall attach an explanation as to why no birth certificate is obtainable and shall submit other proof of age. Other proof of age includes passports, current life insurance policies held for at least one year showing date of birth, entries in family bibles, medical or school records showing date of birth, and marriage licenses showing age.

(d) Applicants from states that do not license electrologists or applicants from states that require less than 600 hours of certified education shall submit proof of practice as required by G.S. 88A-10(a1) supported by tax records or a copy of a privilege license that documents previous practice of electrolysis prior to date of application.

(e) All new electrologist applicants shall take and pass both a written and a practical examination except for applicants meeting the requirements of G.S. 88A-11(2).

(f) In addition to maintaining an active electrologist license from the Board, a laser hair practitioner shall submit:

- (1) proof of completion of a 30-hour laser, light source, or pulsed light treatment certification course approved by the Board that encompasses the laser or light device being used by the laser hair practitioner; and
- (2) a Supervisory Agreement between the laser hair practitioner and a supervising physician licensed with the North Carolina Medical Board (NCMB) as defined under G.S. Article 1 Chapter 90. The Agreement shall be in accordance with Rule .0501 of this Chapter.

(g) A copy of the Supervisory Agreement shall be filed with the Board and a copy shall be available in the office of the supervising physician and the laser hair practitioner for inspection by the Board or its agent.

(h) A new licensee's office(s) shall be inspected prior to commencing business by a designee of the Board.

(i) The Board shall reject an incomplete or partial application.

History Note: Authority G.S. 88A-6; 88A-9; 88A-10; 88A-11; 88A-11.1; 88A-16; 88A-19; 88A-19.1; 88A-21; Temporary Adoption Eff. December 1, 1991 for a period of 62 days to expire on February 1, 1992;

Eff. February 1, 1992;

Temporary Amendment Eff. October 13, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. October 1, 2015; September 1, 2010; February 1, 1994;

Readopted Eff. September 1, 2019.

21 NCAC 19 .0203 APPLICATION FOR RENEWAL, REINSTATEMENT, OR REACTIVATION OF ELECTROLYSIS LICENSE

(a) Unless an applicant electrolysis' license expired more than 90 days prior to the filing of an Electrolysis Annual Renewal application, (available online at www.ncbee.com), each applicant for license renewal pursuant to G.S. 88A-12 shall pay the required renewal fee, including the late renewal charge if applicable, and shall provide proof of compliance with Rule .0701(a)(1) of this Chapter.

(b) An electrologist whose license has been expired for more than 90 days but less than five years may apply for reinstatement by submitting an Electrolysis Reinstatement application (available online at www.ncbee.com), paying the reinstatement fee, and providing proof of competence pursuant to Rule .0701(a)(4) of this Chapter.

(c) An electrologist who has been on the inactive list for less than five years and desires to be returned to active status shall submit an Electrolysis Reactivation application (available online at www.ncbee.com), pay the reactivation fee, and provide proof of competence pursuant to Rule .0701(a)(3) of this Chapter.

(d) Proof of compliance with Rule .0701 of this Chapter shall be provided by a copy of a certificate of course completion issued by the course provider that identifies the course and includes the date, location, and number of hours taken by the applicant. The Board may request confirmation of the number of hours from the course provider if there are questions regarding the authenticity of the documentation and shall not give credit for hours that the entity does not confirm as hours actually taken by the applicant.

(e) Electrolysis Instructor Certification:

- (1) Renewal of Electrolysis Instructor Certification: Unless the applicant's instructor certification expired more than 90 days prior to the filing of an application for renewal, each applicant for instructor certification renewal pursuant to G.S. 88A-18 may apply for renewal by:

- (A) submitting an Electrolysis Instructor Renewal application (available online at www.ncbee.com);
- (B) paying the renewal fee; and
- (C) providing proof of current electrolysis licensure.

- (2) Reactivation of Electrolysis Instructor Certification: An instructor whose certification has been expired for more than 90 days but less

than 3 years may apply for reactivation of the expired certification by:

- (A) submitting an Electrolysis Instructor Reactivation application (available online at www.ncbee.com);
 - (B) paying the reactivation fee; and
 - (C) providing proof of competence as described in Rule .0701(b)(1) of this Chapter.
- (3) Reinstatement of Electrolysis Instructor Certification: An instructor whose certification has been expired for three years or more may apply for reinstatement of the certification by:
- (A) taking and passing the instructor's examination;
 - (B) submitting an Electrolysis Instructor Reinstatement application (available online at www.ncbee.com);
 - (C) paying the reinstatement fee; and
 - (D) providing proof of competence pursuant to Rule .0701(b)(2) of this Chapter.

History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;
Eff. March 1, 1995;
Amended Eff. October 1, 2015;
Readopted Eff. September 1, 2019.

21 NCAC 19 .0204 APPLICATION FOR RENEWAL, REINSTATEMENT, OR REACTIVATION OF LASER HAIR PRACTITIONER LICENSE

(a) Unless an applicant laser hair practitioner's license expired more than 90 days prior to the filing of an application for renewal, each applicant for license renewal pursuant to G.S. 88A-12 shall file a Laser Annual Renewal application (available online at www.ncbee.com), pay the required renewal fee, including the late renewal charge if applicable, and shall provide proof of compliance with Rule .0701(a)(2) of this Chapter.

(b) A laser hair practitioner who has been on the inactive list for less than five years who desires to be returned to active status, shall apply for reactivation by submitting a Laser Reactivation application (available online at www.ncbee.com), paying the reactivation fee, and providing proof of competence pursuant to Rule .0701(a)(3) of this Chapter.

(c) A laser hair practitioner whose license has been expired for more than 90 days but less than five years shall apply for reinstatement by submitting a Laser Reinstatement application (available online at www.ncbee.com), paying the reinstatement fee, and providing proof of competence pursuant to Rule .0701(a)(4) of this Chapter.

(d) Proof of compliance with Rule .0701 of this Chapter shall be provided by a copy of a certificate of course completion issued by the entity that offered the program or course, that identifies the course and includes the date, location, and number of hours taken by the applicant. The Board may request confirmation of the number of hours from the course provider if there are questions regarding the authenticity of the documentation and shall not give

credit for hours that the entity does not confirm as hours actually taken by the applicant.

(e) Laser Hair Removal Instructor Certification:

- (1) Renewal of Laser Hair Removal Instructor Certification: Unless the applicant's instructor certification expired more than 90 days prior to the filing of an application for renewal, each applicant may apply for renewal by:
 - (A) submitting a Laser Instructor Renewal application (available online at www.ncbee.com);
 - (B) paying the renewal fee; and
 - (C) providing proof of current laser hair removal licensure.
- (2) Reactivation of Laser Hair Removal Instructor Certification: An instructor whose certification has been expired for less than 3 years but more than 90 days may apply for reactivation of the expired certification by:
 - (A) submitting a Laser Instructor Reactivation application (available online at www.ncbee.com);
 - (B) paying the reactivation fee; and
 - (C) providing proof of competence as described in Rule .0701(b)(1) of this Chapter.
- (3) Reinstatement of Laser Hair Removal Instructor Certification: An instructor whose certification has been expired for three years or more may apply for reinstatement of the certification by:
 - (A) submitting a Laser Instructor Reinstatement application (available online at www.ncbee.com);
 - (B) paying the reinstatement fee; and
 - (C) providing proof of competence pursuant to Rule .0701(b)(2) of this Chapter.

History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-14; 88A-18;
Eff. September 1, 2010;
Amended Eff. October 1, 2015;
Readopted Eff. September 1, 2019.

21 NCAC 19 .0403 OFFICES

(a) Each electrolysis office, wherever located, shall:

- (1) have a treatment table or other piece of furniture for placing clients for treatment;
- (2) have at least one circuline type lamp, halogen lamp, or other type or magnifying lamp;
- (3) have hand washing facilities on the same floor and toilet facilities in the same building, both with a supply of either soap or a germicidal skin preparation for washing hands;
- (4) have a supply of labeled non-sterile examination gloves, cotton balls and antiseptic product for cleaning client's skin, materials for cleaning instruments and other items, materials

- for cleaning the workplace or documentation of cleaning contract, paper or cotton towels, and puncture-resistant containers and plastic bags for used materials;
- (5) have sterilization equipment and supplies needed for the sterilization methods used;
- (6) have a covered trash can and, if linens are used, a laundry bag or closed container for laundry, available to each workplace area;
- (7) have storage facilities to contain the equipment, instruments, and supplies of the electrolysis practice;
- (8) be inspected annually at each location where the licensee practices; and
- (9) be inspected prior to the commencement of practice if the office is relocated.

(b) In addition to the items required in Paragraph (a) of this Rule, each laser practitioner office shall have the following:

- (1) all doors leading to laser room shall have laser-specific safety signs displayed in accordance with American National Standard Institute (ANSI) Z136.1 Z136.1, which is incorporated herein by reference, including subsequent amendments or additions, and may be obtained at a cost of two hundred and three dollars (\$203.00) from www.lia.org;
- (2) no uncovered mirrors or reflective surfaces;
- (3) laser safety eyewear that is labeled with the same wavelength and optical density as the laser device operated and that is worn while treatment is administered;
- (4) all windows protected from laser beam with either an opaque material or white blinds;
- (5) a fire extinguisher in the treatment room;
- (6) face masks to be worn while treatment is administered; and
- (7) an air filter.

(c) A laser, pulsed-light, or light-based hair removal practice shall be maintained in accordance with local zoning regulations.

(d) Laser, pulsed-light, and light-based devices shall be maintained and operated in accordance with Occupational Safety and Health Administration (OSHA) standards, which are incorporated herein by reference, including subsequent amendments or editions and may be accessed at no cost at <https://www.osha.gov/SLTC/laserhazards>.

(e) A copy of the current "Supervisory Agreement" shall be available in the office for inspection upon request.

History Note: Authority G.S. 88A-6(9); 88A-11.1; 88A-16;
Eff. June 1, 1993;
Amended Eff. September 1, 2010;
Readopted Eff. September 1, 2019.

21 NCAC 19 .0408 ENVIRONMENTAL CONTROL AND HOUSEKEEPING

(a) Electrologists shall observe the following elements of environmental control:

- (1) Each treatment room shall be kept lighted, ventilated, and free from dirt, dust, and contamination;
- (2) Each treatment room shall be equipped with labeled containers, covered storage for supplies, a puncture-resistant sharps container labeled as a biohazard, and covered trash containers;
- (3) Treatment table surfaces shall be made of materials that can be washed with detergents and treated with disinfectants;
- (4) Treatment table surfaces shall be covered with newly laundered linens, new disposable paper drapes, or barrier before each client treatment;
- (5) Headrests shall be covered with newly laundered linens, new disposable paper drapes, or barrier before each client treatment;
- (6) Treatment table surfaces that may come in contact with bare skin during treatments shall be covered with newly laundered linens, new disposable paper drapes, or barrier;
- (7) Containers for dispensing products, such as soap, alcohol hand-rubs, and treatment supplies shall be labeled;
- (8) All treatment supplies shall be disposable or, if reusable, the supplies containers shall be cleaned and dried before being refilled with fresh products;
- (9) Aseptic techniques for dispensing creams, lotions, ointments and antiseptics during treatment shall be followed;
- (10) Manufacturer's recommendations for the use and disposal of products and containers when contaminated, or when expiration date is reached, shall be followed;
- (11) Environmental surfaces that are touched during treatment, such as epilator needle holder and cords, epilator cart, magnification lamps, light devices and epilator controls shall be covered with a new protective disposable barrier before each treatment of a client or decontaminated after each treatment of a client, following manufacturer's instructions;
- (12) Disposable items such as cotton, paper drapes and protective disposal barriers shall be stored in covered containers, closed cabinets, or drawers before use;
- (13) Used disposable items shall be discarded into a covered trash container lined with a plastic bag that is tightly fastened when ready for disposal, and is disposed of daily into the trash, unless otherwise specified by State and local health regulations;
- (14) Reusable items such as sheets, pillowcases, and towels that are used to cover the treatment table or as a client drape shall be stored in covered containers, closed cabinets, or drawers before use; and

- (15) After use, reusable items shall be placed in a covered container labeled as "soiled laundry," laundered with detergent and water temperatures that will ensure cleaning and disinfection, and dried in a gas or electric clothes dryer.

(b) Electrologists shall observe the following elements of housekeeping:

- (1) A low-level hospital-grade disinfectant registered with the Environmental Protection Agency (EPA) shall be used for cleaning non-critical environmental surfaces such as epilator surfaces, magnifying lamps, epilator carts, floors, walls, door knobs, tabletops, and window sills that will only contact intact skin;
- (2) All other environmental surfaces in the treatment room shall be cleaned with water and detergent using a hospital-grade disinfectant or detergent designed for general housekeeping purposes, as indicated on the product label;
- (3) Countertops shall be of smooth, non-porous material and shall be cleaned daily in the areas where cleaning and sterilizing of instruments and items takes place;
- (4) Sinks and toilet facilities shall be cleaned daily;
- (5) Non-critical equipment, such as doorknobs, telephones, and treatment tables in the treatment room, shall be kept cleaned and disinfected;
- (6) Floors cleaned weekly and carpets shall be vacuumed weekly or more often if necessary; and
- (7) Walls, blinds, and curtains shall be cleaned when dirty or dusty.

*History Note: Authority G.S. 88A-16;
Eff. December 1, 2010;
Readopted Eff. September 1, 2019.*

21 NCAC 19 .0409 CLIENT EVALUATION

As an evaluation for each client, the electrologist and laser hair practitioner shall:

- (1) Prepare a Health History Assessment File that contains:
 - (a) the date, name, address, contact information, date of birth, and names of family physician, gynecological physician, and dermatologist, if applicable;
 - (b) the areas of face and body to be treated;
 - (c) the hirsute family history;
 - (d) any current and previous methods of hair removal;
 - (e) any current and previous medications;
 - (f) any current and previous physical examination dates and results;
 - (g) any skin irregularities; and
 - (h) the date and signature of client.

- (2) Update and evaluate the client's current health condition to determine if the client should be referred to a physician.
- (3) Examine the client's skin for signs of infection or rashes prior to each treatment and delay treatment if actual or potential signs or symptoms of infection are present.
- (4) Refer the client to a physician when evaluation of health history or skin examination indicates.
- (5) Instruct the client on post-treatment care to promote healing of the treated skin site.
- (6) Update active client Health History Assessment annually.

*History Note: Authority G.S. 88A-2; 88A-6;
Eff. December 1, 2010;
Amended Eff. September 1, 2015;
Readopted Eff. September 1, 2019.*

21 NCAC 19 .0410 NEEDLESTICK SAFETY AND PREVENTION

Electrologists shall comply with the Needlestick Safety and Prevention Act published January 18, 2001 to amend United States Occupational Safety & Health Administration (OSHA) Regulation 29 CFR 1910.1030, which is hereby incorporated by reference including subsequent amendments and editions. Copies may be obtained at no cost at: <http://www.osha.gov/SLTC/bloodbornepathogens/>.

*History Note: Authority G.S. 88A-16;
Eff. December 1, 2010;
Readopted Eff. September 1, 2019.*

21 NCAC 19 .0412 STANDARD PRECAUTIONS FOR DISEASE CONTROL AND PREVENTION

Electrologists shall:

- (1) Wear a mask and eye protection or a face shield to protect mucous membranes of the eyes, nose, and mouth during procedures and client care activities that may generate splashes or sprays of blood and body fluids;
- (2) Wear scrubs, lab coat, or medical grade clothing to protect skin and prevent soiling of clothing during procedures and client care activities that may generate splashes or sprays of blood and body fluids;
- (3) Remove soiled medical clothing at the conclusion of client procedures and wash hands; and
- (4) Wear protective gloves to prevent puncture injuries when using or cleaning instruments and when disposing of used needles.

*History Note: Authority G.S. 88A-16;
Eff. December 1, 2010;
Readopted Eff. September 1, 2019.*

21 NCAC 19 .0501 SUPERVISING PHYSICIAN

(a) Supervision by Physician – It is the licensed laser practitioner's responsibility to perform procedures solely within his or her professional scope of practice. A laser hair practitioner licensed under this Chapter shall perform laser hair removal only under the supervision of a physician licensed by the State of North Carolina to perform surgical services. The laser hair practitioner shall receive physician supervision before the initial laser treatment procedure. The laser hair practitioner shall perform services only after a physician or other practitioner licensed by the NC Medical Board (NCMB) under G.S. 1, Article 90 has examined the patient. This examination shall include a medical history and focused physical examination of the patient's skin condition to identify abnormalities that might be altered after exposure to a laser beam. The laser hair practitioner shall ensure that the supervising physician is readily available during services in accordance with G.S. 88A-11.1(c) so that the supervising physician is able to respond to patient emergencies and questions by the laser practitioner.

(b) Supervisory Agreement – A laser hair practitioner shall not operate any laser equipment without a signed Supervisory Agreement in accordance with Rule .0202 of this Chapter in place and on file with the Board. The Supervisory Agreement shall include the following elements:

- (1) the supervising physician's name, business address, business telephone number, NCMB license number, and medical specialty;
- (2) an attestation that the supervising physician is licensed to practice medicine in North Carolina and plans to maintain licensure during the timeframe of the agreement;
- (3) a list of devices, makes, and models being used by the laser hair practitioner;
- (4) an attestation that the supervising physician is knowledgeable in the use of the listed devices;

- (5) an attestation that the supervising physician ensures the laser hair practitioner has training to perform laser hair reduction with the listed devices;
- (6) an attestation that the supervising physician will provide personal and responsible direction to the laser hair practitioner;
- (7) an attestation that the supervising physician will be available and able to respond to patient emergencies and to questions by the laser hair practitioner under supervision;
- (8) the geographical distance between the supervising physician and the laser hair practitioner;
- (9) an attestation that the supervising physician will ensure that patient contact, evaluation, and education have been provided for the prescription medications that are related to laser hair reduction, both before and after treatment; and
- (10) a provision for biannual renewal of the Supervisory Agreement, with a copy provided to the Board.

(c) A laser hair practitioner shall notify the Board within 30 days of the termination of the Supervisory Agreement with the supervising physician.

*History Note: Authority G.S. 88A-11.1;
Eff. October 1, 2010;
Amended Eff. October 1, 2015;
Readopted Eff. Pending Legislative Review.*

21 NCAC 19 .0601 CURRICULUM

(a) The course of study for electrolysis shall consist of at least 600 clock hours of instruction in theory and clinical practice as set out in the following table:

Subject	Theory Hours	Clinical Hours
General Orientation	20	0
Rules of the school		
Personal hygiene and dress		
Professional ethics and office rules		
State and local laws governing electrolysis		
History of electrolysis		
Trichology (Hair Growth)	20	0
Hair structure and function		
Growth cycles, including regrowth cycles		
Follicle structure and function		
Endocrinology	20	0
Causes of hair growth, including new hair stimulation		
Study and function of glands		
Dermatology	30	0
Skin structure and function		
Disease of the skin (as related to the practice of electrolysis)		
Reaction of the skin as related to the clinical application of electrolysis		
Neurology/Angiology (as related to electrolysis)	20	0
Nervous system		

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Subject	Theory Hours	Clinical Hours
Pain thresholds		
Pain variables		
Synoptic responses		
Circulatory system		
Cardiovascular system		
Lymphatic system		
Bacteriology	25	40
Sanitation		
Sterilization		
Rules and standards promulgated by the Board		
Principles of Electricity	20	80
Short wave (Alternating) current		
Direct (Galvanic) current		
Equipment	30	200
Modalities		
Electrolysis (DC - Galvanic)		
Thermolysis (SW - Shortwave)		
Blend (Combination of Galvanic and Shortwave)		
Variables		
Probes		
Intensity		
Timing		
Depth of insertion		
Equipment maintenance and upkeep		
General Treatment Procedure	25	30
Consultation with clients		
Consultation instruction shall include methods of developing case histories and health history assessments and providing information on hair growth cycles, modalities used, pain factors, scheduling of appointments, and fees		
Positioning and draping		
Development of Practice	20	20
Public relations and advertisement		
Office procedure and management		
Record keeping		
Telephone etiquette		
Housekeeping (Office)		
Totals:	230	370

(b) The course of study for laser hair removal shall consist of at least 30 clock hours of instruction in theory and clinical practice, with a minimum of 20 hours in practical hands-on instruction and at least 10 hours of basic science (Didactic) instruction in the use of laser and light-based hair removal or reduction devices in the following topics:

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> (1) biology of hair; (2) laser and light-based terminology; (3) laser physics; (4) types of laser and light-based hair removal devices; (5) safety and precautions; (6) tissue interaction; (7) Fitzpatrick skin typing; (8) patient history form and consultation; (9) treatment contraindications; | <ul style="list-style-type: none"> (10) sterilization procedures; (11) draping of patient; (12) pre-treatment and post-treatment care; (13) photo documentation; and (14) photosensitive drugs and disorders. |
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History Note: Authority G.S. 88A-6; 88A-19; 88A-19.1; Eff. June 1, 1993; Amended Eff. December 1, 2010; Readopted Eff. September 1, 2019.

21 NCAC 19 .0602 APPLICATION FOR AND RENEWAL OF SCHOOL CERTIFICATION

(a) Each person applying for a school certification shall submit to the Board the information required by G.S. 88A-19 and 88A-19.1, and:

- (1) A copy of the student contract required by Rule .0605 of this Section; and
- (2) A copy of the form for student authorization to receive electrolysis treatment required by Rule .0605 of this Section.

(b) Applicants for renewal of a school certification shall pay the required renewal fee and update the information that was submitted in accordance with Paragraph (a) of this Rule. This update shall include any information required by virtue of amendments to this Rule in effect as of the date of renewal.

(c) Upon forfeiture, a school may reapply for certification by submitting an Electrolysis School Application or Laser School Application and paying the required application fee. Applications are available at www.ncbee.com.

History Note: Authority G.S. 88A-6; 88A-19; 88A-19.1; 88A-20;

Eff. November 1, 1993;

Amended Eff. September 1, 2015;

Readopted Eff. September 1, 2019.

21 NCAC 19 .0608 SCHOOL EQUIPMENT

(a) Every electrolysis school certified by the Board shall provide and maintain the following equipment in accordance with manufacturers' instructions:

- (1) one high frequency or thermolysis (short wave) machine;
- (2) one galvanic/thermolysis (blend) machine;
- (3) stainless steel, insulated, and disposable epilation probes (or needles) of sizes 002, 003, 004, and 005;
- (4) at least one circuline type lamp, halogen lamp, or other type of magnifying lamp per treatment table;
- (5) two treatment tables and chairs for clients and adjustable chairs or stools for students;
- (6) a cabinet for towels and utilities for each table;
- (7) a covered trash container for each table;
- (8) covered containers for all lotions, soaps, cotton balls, tissues, and other supplies and sterilizing solutions;
- (9) six dozen epilation forceps (or tweezers);
- (10) one plastic puncture resistant container (for used sharps) for each table;
- (11) one autoclave sterilizer, dry heat sterilizer, and ultrasonic cleaner; and
- (12) audio-visual teaching materials and equipment.

(b) Only Federal Food and Drug Administration (FDA) approved types of epilators and laser equipment shall be used by each school in training students.

(c) All epilators, laser equipment, autoclaves and dry heat sterilizers shall be monitored monthly by the school to ascertain effectiveness. Any changes from the list of equipment provided to the Board pursuant to G.S. 88A-19(a)(3) and 88A-19.1(a)(3) shall be reported to the Board.

History Note: Authority G.S. 88A-6; 88A-19; 88A-19.1; 88A-20;

Eff. November 1, 1993;

Amended Eff. September 1, 2015; December 1, 2010;

Readopted Eff. September 1, 2019.

21 NCAC 19 .0613 STUDENT/TEACHER RATIO AND EQUIPMENT

(a) For electrolysis, at least one instructor per 12 students, or fraction thereof, shall be in attendance at all times when students are engaged in clinical work. The school shall provide the necessary equipment, which was documented and approved in its school certification, for each student and client.

(b) For laser, at least one instructor per 12 students, or fraction thereof, shall be in attendance at all times when students are engaged in clinical work. A skills attained checklist that matches current curriculum requirements in Rule .0601(b) of this Section shall be completed and signed off on by the instructor for each student. The school shall provide the necessary equipment, which was documented and approved in its school certification, for each student and client.

History Note: Authority G.S. 88A-6; 88A-19; 88A-19.1; 88A-20;

Eff. December 1, 1993;

Amended Eff. December 1, 2010;

Readopted Eff. September 1, 2019.

21 NCAC 19 .0619 EQUIPMENT ENDORSEMENTS AND SALES PROHIBITED

No school certified by the Board may endorse, recommend, advertise, promote, or sell any type of laser, light-based devices, epilator, or other electrolysis or laser hair removal equipment to the students in the school or permit any other person to do so.

History Note: Authority G.S. 88A-6; 88A-19; 88A-19.1;

Eff. November 1, 1993;

Amended Eff. December 1, 2010;

Readopted Eff. September 1, 2019.

21 NCAC 19 .0701 CONTINUING EDUCATION REQUIREMENTS, LICENSE RENEWAL, REINSTATEMENT AND REACTIVATION

(a) Requirements for practitioners:

- (1) Each electrologist licensed in this State shall complete one CEU, as in Rule .0103 of this Chapter, per renewal period as a requirement for renewal of the electrolysis license. For electrologists with 20 or more years of practice, the CEU requirement shall be completion of one CEU every five years.
- (2) Each laser hair practitioner licensed in this State shall complete one CEU per renewal period as a requirement for renewal of the laser hair practitioner license.
- (3) An electrologist or laser hair practitioner who has been placed on the inactive list by the Board for less than five years and desires to return to active status, shall present evidence of completion of one CEU within the 12 months preceding the reactivation application in

satisfaction of the competency requirement of G.S. 88A-14.

- (4) An electrologist or laser hair practitioner whose license has been expired for 90 days or more but less than five years shall present certification of completion of one CEU for each renewal period or part of a renewal period that has elapsed since the electrologist's or laser hair practitioner's license was last current in satisfaction of the competency requirement of G.S. 88A-12. At least one of the CEUs offered in satisfaction of a competency requirement shall have been completed within the 12 months immediately preceding the application for reinstatement.
- (5) Not more than one CEU may be carried over per renewal period.
- (6) No more than one CEU of home study may be credited for continuing education in each renewal period. "Home study" is defined as an educational activity undertaken by an individual, completed by correspondence or online, and with a certification of completion awarded at the end of the course. Continuing education hours obtained through home study may not be carried over to a subsequent renewal period.
- (7) In the initial year of licensure, new licensees tested after the sixth month of the calendar year shall not be required to obtain CEUs until the following renewal year.
- (8) Over any two renewal periods, the Board shall give credit for no more than one-half CEU in the area of business management.

(b) Requirements for instructors:

- (1) An instructor whose certification has been placed on the inactive list for more than 90 days and less than 3 years shall present certification of completion of one CEU within the 12 months immediately preceding the application for reactivation of certification.
- (2) An instructor whose certification has been expired for more than 90 days, but less than 3 years shall present certification of completion of one CEU for each renewal period or part of a renewal period that has elapsed since the instructor's license was last current. At least one of the CEUs offered in satisfaction of a competency requirement shall have been completed within the 12 months immediately preceding the application for reinstatement of certification.

History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;

Eff. March 1, 1995;

Amendment Eff. October 1, 2015; December 1, 2010;

Readopted Eff. September 1, 2019.

21 NCAC 19 .0702

COURSES

BOARD APPROVAL OF

(a) The Board shall approve a program or course if it is:

- (1) In any subject required by 21 NCAC 19 .0601; and
- (2) Offered by one of the following entities:
 - (A) a college or university authorized to grant degrees in this State;
 - (B) a national professional electrolysis or laser association;
 - (C) a school or Continuing Education (CE) provider certified by the Board;
 - (D) American Society of Laser Medicine (ASLM);
 - (E) American Academy of Dermatology (AAD); or
 - (F) an entity providing a program of Certified Medical Education (CME).

(b) The entity offering the program or course shall provide the Board with the information listed in Paragraph (c) of this Rule and shall certify to the Board the names of all electrologists licensed by the Board who attended the program or course and their actual hours of attendance.

(c) The Board shall not approve a program or course without the following information:

- (1) Title, location, and date of the course;
- (2) Sponsoring entity;
- (3) Course objective and content;
- (4) Hours of study; and
- (5) Name, education, and background of each instructor.

(d) An electrologist or laser hair practitioner seeking credit for a program or course offered by an entity not listed in Paragraph (a) of this Rule may request that the Board approve the course by submitting in writing, at least two months in advance of the course registration date, the information listed in Paragraph (c) of this Rule on an application form provided by the Board. The Application for Approval of Continuing Education may be obtained online at www.ncbee.com.

(e) The Board shall approve a program or course if requested pursuant to Paragraph (d) of this Rule upon finding that it meets the requirements of G.S. 88A-13. In determining whether or not to make this finding, the Board shall consider the program or course in light of the criteria set forth in The Continuing Education Unit Criteria and Guidelines, current edition, as adopted by the International Association for Continuing Education and Training (IACET) in conjunction with the American Standards National Institute (ANSI) and incorporated herein by reference including subsequent amendments or editions. The presence of all criteria or the absence of individual criteria shall not be conclusive, and the Board shall have discretion in the approval of programs, courses, or providers on a case-by-case basis. Copies of The Continuing Education Unit Criteria and Guidelines, current edition, may be obtained at a cost of twenty-nine dollars and ninety-five cents (\$29.95) at <http://www.IACET.org>.

(f) The Board shall notify the electrologist by mail of the Board's findings and decision regarding the request made pursuant to Paragraph (d) of this Rule. A change in subject matter, length, or

instructor of a course requires reapproval by the Board. The entity offering the program or course shall either provide to the electrologist or directly to the Board certification of the electrologist's actual hours of attendance after the program or course is complete.

History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;
Eff. March 1, 1995;
Amended Eff. September 1, 2015; December 1, 2010;
Readopted Eff. September 1, 2019.

21 NCAC 19 .0703 COMPUTATION OF CONTINUING EDUCATION UNITS

- (a) To obtain credit as a contact hour of continuing education, the learning activity scheduled for an hour shall occupy at least 50 minutes of the hour.
- (b) An electrologist may fulfill the continuing education requirements of Rule .0701 of this Section by completing more than one course if the total equals one or more CEUs.
- (c) One semester credit hour at a university or college shall be equivalent to one CEU. A course may be audited or taken for credit.
- (d) An electrologist who teaches in a program or course approved by the Board may obtain CEU credit at the rate of four contact hours for each contact hour of teaching.

History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;
Eff. March 1, 1995;
Readopted Eff. September 1, 2019.

TITLE 25 - OFFICE OF STATE HUMAN RESOURCES

25 NCAC 01I .1702 EMPLOYMENT OF RELATIVES

- (a) The term "immediate family" includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson and granddaughter. Also included are the step-, half- and in-law relationships based on the listing in this Rule.
- (b) Members of an immediate family shall not be employed within the same agency if the employment results in one member supervising another member of the employee's immediate family, or if one member will occupy a position that has influence over another member's employment, promotion, salary administration, or other related management or personnel considerations. This includes employment on a permanent, temporary, or contractual basis.

History Note: Authority G.S. 126-4;
Eff. August 3, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;
Amended Eff. September 1, 2019.

25 NCAC 01I .1805 PROVISIONS FOR TENTATIVE TEMPORARY CLASSIFICATION

The State Human Resources Director is authorized to establish temporary classifications with tentative pay grades when

insufficient market compensation information is available to make permanent classification and pay recommendations to the State Human Resources Commission. When sufficient market compensation information is available, the Director will make a recommendation to the State Human Resources Commission that will incorporate the temporary classification and pay into the permanent classification plan and pay plan. Such temporary classifications shall be administered according to all applicable rules approved by the State Human Resources Commission.

History Note: Authority G.S. 126-3(8); 126-4;
Eff. August 3, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;
Amended Eff. September 1, 2019.

25 NCAC 01I .1902 POSTING AND ANNOUNCEMENT OF VACANCIES

- (a) Vacant positions to be filled shall be posted by the agency having the vacancy.
- (b) Vacancies that will be filled from within the agency workforce shall have an application period of not less than seven calendar days. These vacancies will be posted in an area known to employees in an announcement that includes, at minimum the title, salary range, duties, knowledge and skill requirements, minimum training and experience standard, closing date, and contact person for each position to be filled. Posting is not required when an agency head determines it will not openly recruit based upon a business need for vacancies:
 - (1) that are committed to a budget reduction;
 - (2) used to avoid a reduction in force;
 - (3) used for disciplinary transfers or demotions;
 - (4) to be filled by transfer of an employee to avoid the threat of bodily harm;
 - (5) that must be filled immediately to prevent work stoppage in constant demand situations, or to protect the public health, safety, or security;
 - (6) to be filled by a legally binding settlement agreement;
 - (7) to be filled in accordance with a pre-existing written agency workforce plan; or
 - (8) that must be filled immediately because of a widespread outbreak of a serious communicable disease.
- (c) Any vacancy for which an agency wishes to consider outside applicants or outside applicants concurrently with the internal workforce may be listed with the local NCWorks Career Center of the Division of Employment Security. Listings shall include the announcement information specified in Paragraph (b) of this Rule and vacancies so listed shall have an application period of not less than seven calendar days.
- (d) If an agency makes an effort to fill a vacancy from within, and is unsuccessful, the listing with the Division of Employment Security may take place when the decision is made to recruit outside of the agency. A vacancy that an agency will not fill for any reason shall not be posted; if conditions change, it shall then be treated as a new vacancy.

History Note: Authority G.S. 96-29; 126-3(b); 126-4(4); 126-7.1; 126-14;
Eff. August 3, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;
Amended Eff. September 1, 2019.

25 NCAC 01I .1903 APPLICANT INFORMATION AND APPLICATION

- (a) Persons applying for a local vacancy must complete and submit the application form designated by the hiring authority. Local agencies are not required to accept applications for a position that is not vacant.
- (b) Each agency shall be responsible for evaluating the accuracy of statements made in an application and may seek job-related evidence of the applicant's suitability for employment.
- (c) An applicant shall be disqualified if he or she:
 - (1) lacks any of the preliminary qualifications established for the class of the position being applied for;
 - (2) has made a false statement of material fact in the application process;
 - (3) fails to submit a completed application within the prescribed time limits;
 - (4) lacks the physical or mental ability to perform the essential functions of the position even with reasonable accommodation.

History Note: Authority G.S. 126-4;
Eff. September 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;
Amended Eff. September 1, 2019.

25 NCAC 01I .1905 SELECTION

- (a) Selection of Applicants:
 - (1) As set forth in G.S. 126-14, using fair and valid selection criteria, the agency shall review the credentials of each applicant in order to determine who possesses the minimum qualifications including selective criteria. "Selective criteria" shall be defined as additional minimum qualifications identified by the agency. From those applicants who meet the minimum qualifications, a pool of the most qualified candidates shall be identified by the agency. The pool of most qualified candidates shall be those individuals determined to be substantially more qualified than other applicants. The individual selected for the position shall be from among the most qualified applicants.
 - (2) Selection procedures and methods shall be validly related to the duties and responsibilities of the vacancy to be filled.
 - (3) Agencies shall select from the pool of the most qualified persons to fill vacant positions.

- (4) The agency shall provide written notice of non-selection to all unsuccessful candidates in the most qualified pool.
- (b) Minimum Qualifications:
 - (1) The employee or applicant must possess at least the minimum qualifications set forth in the class specification of the vacancy being filled. Any additional minimum qualifications included on the specific vacancy announcement must also be met. The additional qualifications shall have a documented business need. Qualifications include training, experience, competencies, and knowledge, skills, and abilities. The minimum qualifications on the vacancy announcement shall bear a relationship to the minimums on the class specification and the specific position description.
 - (2) Qualifications may be attained in a variety of combinations. Substitutions of formal training and job-related experience, one for the other, may be made by the local government agency.
 - (3) Agency management shall be responsible for determining and defending the vacancy-specific qualifications that are in addition to minimum training and experience requirements. Such vacancy-specific qualifications shall bear a related relationship to the minimum requirements.
 - (4) At the request of the agency, the Office of State Human Resources shall make the final determination as to whether the employee or applicant meets the minimum qualifications.

History Note: Authority G.S. 126-4;
Eff. August 3, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;
Amended Eff. September 1, 2019.

25 NCAC 01I .2003 PROMOTION

- (a) Promotion is an advancement from one position to another with a higher salary grade.
- (b) Selection for promotion shall be based upon demonstrated capacity and quality of services. If a promotion results from movement to another position, the candidate must possess the minimum training and experience for the classification. If the promotion results from the present position being reallocated to a higher classification, the employee may be promoted by the local government agency through waiver of the stated training and experience requirements.
- (c) An employee in a work-against appointment cannot be promoted, upon reallocation of his or her position, by waiver of training and experience requirements until he or she has served at least one year in the work-against class or until qualified for the new class. The incumbent in a work-against situation must be promoted as soon as he or she meets the qualifications for the higher class or the position must be reallocated to the lower class.
- (d) An employee in probationary or trainee status may be promoted to another position in a higher classification if the

person is qualified for such an appointment. The employee's probationary period shall continue for the duration defined in G.S. 126-1.1.

(e) An employee in probationary status occupying a position at the time it is reallocated upward may be promoted to the new class if the person possesses the minimum training and experience requirements; if not qualified, the employee shall remain at the former level working against the higher classification or be separated. If promoted during the probationary period, the employee shall continue in probationary status until the duration defined in G.S. 126-1.1 has been satisfied, beginning with the initial probationary appointment.

History Note: Authority G.S. 126-4;

Eff. August 3, 1992;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;

Amended Eff. September 1, 2019.

25 NCAC 01I .2105 OTHER PAY

History Note: Authority G.S. 126-4; 126-5; 126-9;

Eff. August 3, 1992;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;

Repealed Eff. September 1, 2019.

25 NCAC 01I .2302 DISMISSAL FOR UNSATISFACTORY PERFORMANCE OF DUTIES

(a) Unsatisfactory Job Performance is work-related performance that fails to meet job requirements as specified in the job description, work plan, or as directed by the management of the work unit or agency.

(b) Agencies shall apply this Rule consistent with the requirements of 25 NCAC 01J .0605.

(c) In order to be dismissed for a current incident of unsatisfactory job performance, an employee must first receive at least two prior disciplinary actions. First, one or more written warnings, followed by a warning or other disciplinary action that notifies the employee that failure to make the required performance improvements may result in dismissal.

(d) Prior to the decision to dismiss an employee, the agency director or designated management representative must conduct a pre-disciplinary conference with the employee in accordance with the procedural requirements of Rule .2308 of this Section.

(e) An employee who is dismissed must receive written notice of the specific reasons for the dismissal as well as notice of any applicable appeal rights.

(f) Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a pre-disciplinary conference constitute procedural violations with remedies as provided for in 25 NCAC 01J .1316. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

History Note: Authority G.S. 126-4; 126-35;

Eff. August 3, 1992;

Amended Eff. April 1, 2001; December 1, 1995;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;

Amended Eff. September 1, 2019.

25 NCAC 01I .2303 DISMISSAL FOR GROSSLY INEFFICIENT JOB PERFORMANCE

(a) Grossly inefficient job performance is a type of unacceptable personal conduct and means the employee fails to perform job requirements as specified in the job description, work plan, or as directed by the management of the work unit or agency and that failure results in:

- (1) death or serious harm or the creation of the potential for death or serious harm, to a client(s), an employee(s), members of the public or to a person(s) over whom the employee has responsibility; or
- (2) the loss of or damage to agency property or funds that result in a serious impact on the agency or work unit.

(b) Dismissal on the basis of grossly inefficient job performance shall be administered in the same manner as unacceptable personal conduct detrimental to State service consistent with G.S. 126-35(a). Employees may be dismissed on the basis of an incident of grossly inefficient job performance without any prior disciplinary action.

(c) Prior to dismissal of an employee with career status on the basis of grossly inefficient job performance, there shall be a pre-disciplinary conference between the employee and the agency director or designated management representative. The pre-disciplinary conference shall be held in accordance with Rule .2308 of this Section.

(d) Dismissal for grossly inefficient job performance requires written notification to the employee. The written notification shall include specific reasons for the dismissal and notice of the employee's right of appeal.

(e) Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a pre-disciplinary conference constitute procedural violations with remedies as provided for in 25 NCAC 01J .1316. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

History Note: Authority G.S. 126-4(7a); 126-35;

Eff. August 3, 1992;

Amended Eff. April 1, 2001; December 1, 1995;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;

Amended Eff. September 1, 2019.

25 NCAC 01I .2304 DISMISSAL FOR UNACCEPTABLE PERSONAL CONDUCT

(a) Employees may be dismissed for a current incident of unacceptable personal conduct without any prior active disciplinary actions. For unacceptable personal conduct, any level of discipline may be imposed without warning.

(b) Unacceptable personal conduct means:

- (1) conduct on or off the job that is related to the employee's job duties and responsibilities for

- which no reasonable person should expect to receive prior warning;
- (2) conduct that constitutes violation of State or federal law;
- (3) conviction of a felony that is detrimental to or impacts the employee's service to the agency;
- (4) the willful violation of work rules;
- (5) conduct unbecoming an employee that is detrimental to the agency's service;
- (6) the abuse of client(s), patient(s), or a person(s) over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the agency;
- (7) falsification of an employment application or other employment documentation;
- (8) insubordination that is the willful failure or refusal to carry out an order from an authorized supervisor;
- (9) absence from work after all authorized leave credits and benefits have been exhausted; or
- (10) failure to maintain or obtain credentials or certifications.

(c) Prior to dismissal of an employee with career status on the basis of unacceptable personal conduct, there shall be a pre-disciplinary conference between the employee and the agency director or designated management representative. This pre-disciplinary conference shall be held in accordance with the provisions of 25 NCAC 01I .2308.

(d) Dismissals for unacceptable personal conduct require written notification to the employee. The written notification shall include specific reasons for the dismissal and notice of the employee's right of appeal.

(e) Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a pre-disciplinary conference constitute procedural violations with remedies as provided for in 25 NCAC 01J .1316. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

History Note: Authority G.S. 126-4; 126-35; Eff. August 3, 1992; Amended Eff. April 1, 2001; December 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016; Amended Eff. September 1, 2019.

25 NCAC 01I .2305 WRITTEN WARNING

The supervisor shall monitor the performance of work assignments and assure that employees do not engage in unacceptable personal conduct. All types of performance-related job inadequacies may constitute unsatisfactory job performance under this Section. When the supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee shall receive. The supervisor may elect to issue a written warning for grossly inefficient job performance or unacceptable personal conduct. The written warning shall:

- (1) Inform the employee that this is a written warning, and not some other non-disciplinary process such as counseling;
- (2) Inform the employee of the specific issues that are the basis for the warning;
- (3) Tell the employee what specific corrections, if applicable, must be made to address these specific issues;
- (4) Tell the employee the time frame allowed for making the required corrections. Immediate correction is required for grossly inefficient job performance or unacceptable personal conduct;
- (5) Tell the employee the consequences of failing to make the required corrections; and
- (6) Tell the employee of any appeal rights provided by agency policy.

History Note: Authority G.S. 126-4; Eff. August 3, 1992; Amended Eff. December 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016; Amended Eff. September 1, 2019.

25 NCAC 01I .2306 DISCIPLINARY SUSPENSION WITHOUT PAY

(a) An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance after the receipt of at least one prior disciplinary action or without any prior warning for causes relating to any form of unacceptable personal conduct or grossly inefficient job performance pursuant to Rule .2301 of this Section. A disciplinary suspension without pay for an employee who is subject to the overtime compensation provisions of the Fair Labor Standards Act (FLSA) must be for at least one full work day, but not more than two full work weeks. Prior to placing any employee on disciplinary suspension without pay, the agency director or designated management representative shall conduct a pre-disciplinary conference with the employee in accordance with the procedural requirements of this Section. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and the employee's appeal rights.

(b) An agency has the option of imposing the same periods of disciplinary suspension without pay upon all employees as long as the period is the same as for employees exempt from the overtime provisions of the FLSA as set forth in this Section.

History Note: Authority G.S. 126-4(6); 126-35; Eff. August 3, 1992; Amended Eff. April 1, 2001; December 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016; Amended Eff. September 1, 2019.

25 NCAC 01I .2307 DEMOTION

(a) Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct.

- (1) Unsatisfactory Job Performance. An employee may be demoted for unsatisfactory job performance after the employee has received at least one prior disciplinary action.
 - (2) Grossly Inefficient Job Performance. An employee may be demoted for grossly inefficient job performance without any prior disciplinary action.
 - (3) Unacceptable Personal Conduct. An employee may be demoted for unacceptable personal conduct without any prior disciplinary action.
 - (4) An employee who is demoted shall receive written notice of the specific reasons for the demotion, as well as notice of any applicable appeal rights.
- (b) Disciplinary demotions may be accomplished in three ways:
- (1) The employee may be demoted to a lower pay grade with a reduction in salary rate as long as the new salary rate does not exceed the maximum of the salary range for the new lower pay grade;
 - (2) The employee may be demoted to a lower pay grade without a reduction in salary rate as long as the new salary rate does not exceed the maximum of the salary rate for the new lower pay grade; or
 - (3) The employee may be demoted while retaining the same pay grade with a reduction in salary rate. In no event shall an employee's salary rate be reduced to less than the minimum salary rate for the applicable pay grade.
- (c) Prior to the decision to demote an employee for disciplinary reasons, the agency director or a management representative shall conduct a pre-disciplinary conference with the employee in accordance with the procedural requirements of Rule .2308 of this Section.

History Note: Authority G.S. 126-4; 126-35; Eff. August 3, 1992; Amended Eff. April 1, 2001; December 1, 1995;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016; Amended Eff. September 1, 2019.

25 NCAC 01I .2310 APPEALS

- (a) An employee with career status as defined in G.S. 126-1.1 who has been demoted, suspended, or dismissed shall have 15 calendar days from the date of his or her receipt of written notice of the action to file an appeal pursuant to his or her agency grievance procedure. If an employee does not appeal his or her demotion, suspension, or dismissal through the agency grievance procedure within 15 calendar days, then the employee shall have no right to file a contested case with the Office of Administrative Hearings under G.S. 126-35.
- (b) If an employee appeals his or her demotion, suspension, or dismissal through the agency grievance procedure, then the written notice of the action shall not constitute the final agency decision, but the final agency decision shall be the decision made at the conclusion of the employee's appeal through the agency grievance procedure.
- (c) Grievances that allege discrimination, harassment, or retaliation shall follow the agency grievance procedure. Employees who do not follow the agency grievance procedure shall have no right to file a contested case with the Office of Administrative Hearings.
- (d) If the employee has completed the agency grievance process and is not satisfied with the final agency decision, or is unable to obtain a final agency decision within 90 days from the date the grievance was filed, the employee may file a petition for contested case hearing in the Office of Administrative Hearings. A petition for contested case hearing must be filed within 30 calendar days after the grievant receives the final agency decision.

History Note: Authority G.S. 126-1.1; 126-34.02; 126-35; Eff. December 1, 1995; Amended Eff. July 18, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016; Amended Eff. September 1, 2019.

This Section contains information for the meeting of the Rules Review Commission October 17, 2019 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

Jeff Hyde (Chair)
Robert A. Bryan, Jr.
Margaret Currin
Brian P. LiVecchi
W. Tommy Tucker, Sr.

Appointed by House

Jeanette Doran (1st Vice Chair)
Andrew P. Atkins
Anna Baird Choi (2nd Vice Chair)
Paul Powell
Garth Dunklin

COMMISSION COUNSEL

Amber Cronk May (919) 431-3074
Amanda Reeder (919) 431-3079
Ashley Snyder (919) 431-3081

RULES REVIEW COMMISSION MEETING DATES

October 17, 2019 November 21, 2019
December 19, 2019 January 16, 2020

AGENDA**RULES REVIEW COMMISSION****THURSDAY, OCTOBER 17, 2019 9:00 A.M.****1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 163A-159(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Department of Administration – 01 NCAC 05B .1520 (May)
 - B. Board of Elections - 08 NCAC 10B .0103 (May)
 - C. Social Services Commission - 10A NCAC 06S .0101, .0102, .0203, .0204, .0301, .0302, .0402, .0403, .0404, .0405, .0501, .0508; 06T .0201 (Reeder)
 - D. Commission for the Blind - 10A NCAC 63C .0203, .0204, .0403, .0601 (Reeder)
 - E. Department of Justice - 12 NCAC 02I .0306 (Reeder)
 - F. Private Protective Services Board - 14B NCAC 16 .0110, .0804, .0805, .0806, .0807, .0808, .0809, .0901, .0904, .0906, .0909 (Reeder)
 - G. Board of Cosmetic Art Examiners - 21 NCAC 14H .0101, .0102 (May)
 - H. Board of Dental Examiners - 21 NCAC 16A .0101, .0105; 16B .0101, .0303; 16C .0101; 16H .0201, .0208; 16I .0106; 16N .0501, .0603, .0607; 16V .0101, .0102; 16W .0102 (Snyder)
 - I. Environmental Management Commission - 15A NCAC 02B .0101, .0103, .0104, .0106, .0108, .0110, .0201, .0202, .0203, .0204, .0205, .0206, .0208, .0211, .0212, .0214, .0215, .0216, .0218, .0219, .0220, .0221, .0222, .0223, .0224, .0225, .0226, .0227, .0228, .0230, .0231, .0301, .0302, .0303, .0304, .0305, .0306, .0307, .0308, .0309, .0310, .0311, .0312, .0313, .0314, .0315, .0316, .0317 (May)
 - J. Environmental Management Commission - 15A NCAC 02B .0402, .0403, .0404, .0406, .0407, .0408, .0501, .0502, .0503, .0504, .0505, .0506, .0508, .0511; 02H .0101, .0102, .0103, .0105, .0106, .0107, .0108, .0109, .0111, .0112, .0113, .0114, .0115, .0116, .0117, .0118, .0120, .0121, .0124, .0125, .0127, .0138, .0139, .0140, .0141, .0142, .0143, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .1201, .1202, .1203, .1204, .1205, .1206 (May)
 - K. Board of Dietetics/Nutrition – 21 NCAC 17 .0101, .0303 (Reeder)
 - L. State Board of Opticians – 21 NCAC 40 .0104, .0109, .0209, .0314, .0319, .0321, .0323, .0325 (Snyder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between August 21, 2019 through September 20, 2019
 - Department of Administration

- DHHS – Division of Health Service Regulation
 - Sheriffs' Education and Training Standards Commission
 - Environmental Management Commission 02B
 - Environmental Management Commission 02D
 - Wildlife Resources Commission
 - Environmental Management Commission 13B
 - Board of Funeral Service
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
- Readoptions
1. 15A NCAC 18A - Commission for Public Health (May)
- VII. Commission Business
- Next meeting: Thursday, November 21, 2019
-

**Commission Review
Log of Permanent Rule Filings
August 21, 2019 through September 20, 2019**

ADMINISTRATION, DEPARTMENT OF

The rules in Chapter 38 are from the motor fleet management division and concern operation of the division's motor pools (.0100); maintenance and care of vehicles (.0200); assignment of vehicles (.0300); vehicle use (.0400); use of privately owned vehicles (.0500); and miscellaneous provisions (.0600).

<u>Mileage Rates</u>	01	NCAC 38	.0103
Readopt with Changes*			
<u>General Repairs and Maintenance</u>	01	NCAC 38	.0201
Readopt with Changes*			
<u>Accident Reporting</u>	01	NCAC 38	.0205
Readopt with Changes*			
<u>Requests for Assignment of Vehicles</u>	01	NCAC 38	.0302
Readopt with Changes*			
<u>Removal of Vehicles from Individual and Agency Assignment</u>	01	NCAC 38	.0305
Readopt with Changes*			
<u>Return of Assigned Vehicles</u>	01	NCAC 38	.0308
Readopt with Changes*			
<u>Official Use Only</u>	01	NCAC 38	.0401
Amend*			
<u>Relatives</u>	01	NCAC 38	.0407
Readopt with Changes*			

The rules in Subchapter 43A concern state surplus property including general provisions (.0100); state surplus property (.0200); and disposal of surplus property (.0300).

<u>Public Sale</u>	01	NCAC 43A	.0307
Readopt with Changes*			
<u>First-Come First-Served</u>	01	NCAC 43A	.0308
Readopt with Changes*			
<u>Rejection of Bids</u>	01	NCAC 43A	.0309
Readopt with Changes*			
<u>Receipt of Bids</u>	01	NCAC 43A	.0310
Readopt with Changes*			
<u>Inspection of Property</u>	01	NCAC 43A	.0311

Readopt with Changes*	
<u>State Does Not Guarantee</u>	01 NCAC 43A .0312
Readopt with Changes*	
<u>Refunds</u>	01 NCAC 43A .0313
Readopt with Changes*	
<u>Extension to Pay or Remove Property</u>	01 NCAC 43A .0314
Readopt with Changes*	
<u>Failure to Pay or Remove Property</u>	01 NCAC 43A .0315
Readopt with Changes*	
<u>Bond</u>	01 NCAC 43A .0316
Readopt with Changes*	
<u>Demolition of State Buildings</u>	01 NCAC 43A .0317
Readopt with Changes*	
<u>Timber Sales, Pinestraw, and Forest Commodities Sales</u>	01 NCAC 43A .0318
Readopt with Changes*	
<u>Surplus Weapons and Firearms</u>	01 NCAC 43A .0319
Readopt with Changes*	
<u>Payment</u>	01 NCAC 43A .0320
Readopt with Changes*	

HHS - HEALTH SERVICE REGULATION, DIVISION OF

The rules in Subchapter 14G concern exemptions from prohibitions of self-referrals by health care providers for underserved areas.

<u>Definitions</u>	10A NCAC 14G .0101
Readopt/Repeal*	
<u>Application</u>	10A NCAC 14G .0102
Readopt with Changes*	
<u>Criteria for an Underserved Area Exemption - New Entity</u>	10A NCAC 14G .0103
Readopt/Repeal*	
<u>Criteria for an Underserved Area Exemption - Existing Entity</u>	10A NCAC 14G .0104
Readopt/Repeal*	

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Subchapter 10B are from the N.C. Sheriffs' Education and Training Standards Commission. These rules govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); and firearms in-service training and re-qualification (.2100).

<u>Certification and Training for School Resources Officers</u>	12 NCAC 10B .0510
Amend*	
<u>Minimum Training Requirements</u>	12 NCAC 10B .2005
Amend*	

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards used to classify the waters of the state (.0200); stream classifications

(.0300); effluent limitations (.0400); monitoring and reporting requirements (.0500); and water quality management plans (.0600).

<u>Tar-Pamlico Nutrient Strategy: New and Expanding Wastewat...</u> Readopt with Changes*	15A NCAC 02B .0229
<u>Neuse Nutrient Strategy: Purpose and Scope</u> Readopt with Changes*	15A NCAC 02B .0232
<u>Neuse River Basin-Nutrient Sensitive Waters Management St...</u> Readopt with Changes*	15A NCAC 02B .0234
<u>Neuse Strategy: Stormwater</u> Readopt with Changes*	15A NCAC 02B .0235
<u>Neuse River Basin-Nutrient Sensitive Waters Management St...</u> Readopt/Repeal*	15A NCAC 02B .0236
<u>Best Management Practice Cost-Effectiveness Rate</u> Readopt/Repeal*	15A NCAC 02B .0237
<u>Neuse Nutrient Strategy: Agriculture</u> Readopt with Changes*	15A NCAC 02B .0238
<u>Neuse River Basin: Nutrient Sensitive Waters Management S...</u> Readopt/Repeal*	15A NCAC 02B .0239
<u>Nutrient Offset Credit Training</u> Readopt with Changes*	15A NCAC 02B .0240
<u>Tar-Pamlico River Basin-Nutrient Sensitive Waters Managem...</u> Readopt/Repeal*	15A NCAC 02B .0255
<u>Tar-Pamlico Nutrient Strategy: Agriculture</u> Readopt with Changes*	15A NCAC 02B .0256
<u>Tar-Pamlico River Basin-Nutrient Sensitive Waters Managem...</u> Readopt/Repeal*	15A NCAC 02B .0257
<u>Tar-Pamlico Nutrient Strategy: Stormwater</u> Readopt with Changes*	15A NCAC 02B .0258
<u>Nutrient Strategies Definitions</u> Adopt*	15A NCAC 02B .0701
<u>Tar-Pamlico Nutrient Strategy: Purpose and Scope</u> Adopt*	15A NCAC 02B .0730

The rules in Subchapter 2D are air pollution control requirements including definitions and references (.0100); air pollution sources (.0200); air pollution emergencies (.0300); ambient air quality standards (.0400); emission control standards (.0500); air pollutants monitoring and reporting (.0600); complex sources (.0800); volatile organic compounds (.0900); motor vehicle emission control standards (.1000); control of toxic air pollutants (.1100); control of emissions from incinerators (.1200); oxygenated gasoline standard (.1300); nitrogen oxide standards (.1400); general conformity for federal actions (.1600); emissions at existing municipal solid waste landfills (.1700); control of odors (.1800); open burning (.1900); transportation conformity (.2000); risk management program (.2100); special orders (.2200); emission reduction credits (.2300); clean air interstate rules (.2400); mercury rules for electric generators (.2500); and source testing (.2600).

<u>Purpose and Scope</u> Readopt without Changes*	15A NCAC 02D .0601
<u>Definitions</u> Readopt without Changes*	15A NCAC 02D .0602
<u>Exceptions to Monitoring and Reporting Requirements</u> Readopt without Changes*	15A NCAC 02D .0604
<u>General Recordkeeping and Reporting Requirements</u> Readopt without Changes*	15A NCAC 02D .0605
<u>Sources Covered by Appendix P of 40 CFR Part 51</u> Readopt without Changes*	15A NCAC 02D .0606

<u>Large Wood and Wood-Fossil Fuel Combination Units</u>	15A NCAC 02D .0607
Readopt without Changes*	
<u>Other Large Coal or Residual Oil Boilers</u>	15A NCAC 02D .0608
Readopt without Changes*	
<u>Federal Monitoring Requirements</u>	15A NCAC 02D .0610
Readopt without Changes*	
<u>Monitoring Emissions from Other Sources</u>	15A NCAC 02D .0611
Readopt without Changes*	
<u>Alternative Monitoring and Reporting Procedures</u>	15A NCAC 02D .0612
Readopt without Changes*	
<u>Quality Assurance Program</u>	15A NCAC 02D .0613
Readopt without Changes*	
<u>Compliance Assurance Monitoring</u>	15A NCAC 02D .0614
Readopt with Changes*	
<u>Delegation</u>	15A NCAC 02D .0615
Readopt without Changes*	
<u>Applicability</u>	15A NCAC 02D .2101
Readopt without Changes*	
<u>Definitions</u>	15A NCAC 02D .2102
Readopt without Changes*	
<u>Requirements</u>	15A NCAC 02D .2103
Readopt without Changes*	
<u>Implementation</u>	15A NCAC 02D .2104
Readopt with Changes*	
<u>Purpose</u>	15A NCAC 02D .2301
Readopt without Changes*	
<u>Definitions</u>	15A NCAC 02D .2302
Readopt without Changes*	
<u>Applicability and Eligibility</u>	15A NCAC 02D .2303
Readopt with Changes*	
<u>Qualification of Emission Reduction Credits</u>	15A NCAC 02D .2304
Readopt without Changes*	
<u>Creating and Banking Emission Reduction Credits</u>	15A NCAC 02D .2305
Readopt with Changes*	
<u>Duration of Emission Reduction Credits</u>	15A NCAC 02D .2306
Readopt without Changes*	
<u>Use of Emission Reduction Credits</u>	15A NCAC 02D .2307
Readopt with Changes*	
<u>Certificates and Registry</u>	15A NCAC 02D .2308
Readopt without Changes*	
<u>Transferring Emission Reduction Credits</u>	15A NCAC 02D .2309
Readopt without Changes*	
<u>Revocation and Changes of Emission Reduction Credits</u>	15A NCAC 02D .2310
Readopt without Changes*	
<u>Monitoring</u>	15A NCAC 02D .2311
Readopt without Changes*	
<u>Purpose and Scope</u>	15A NCAC 02D .2601
Readopt with Changes*	
<u>General Provisions on Test Methods and Procedures</u>	15A NCAC 02D .2602
Readopt with Changes*	
<u>Testing Protocol</u>	15A NCAC 02D .2603
Readopt with Changes*	

<u>Number of Test Points</u>	15A NCAC 02D .2604
Readopt without Changes*	
<u>Velocity and Volume Flow Rate</u>	15A NCAC 02D .2605
Readopt without Changes*	
<u>Molecular Weight</u>	15A NCAC 02D .2606
Readopt without Changes*	
<u>Determination of Moisture Content</u>	15A NCAC 02D .2607
Readopt without Changes*	
<u>Number of Runs and Compliance Determination</u>	15A NCAC 02D .2608
Readopt with Changes*	
<u>Particulate Testing Methods</u>	15A NCAC 02D .2609
Readopt with Changes*	
<u>Opacity</u>	15A NCAC 02D .2610
Readopt with Changes*	
<u>Sulfur Dioxide Testing Methods</u>	15A NCAC 02D .2611
Readopt with Changes*	
<u>Nitrogen Oxide Testing Methods</u>	15A NCAC 02D .2612
Readopt without Changes*	
<u>Volatile Organic Compound Testing Methods</u>	15A NCAC 02D .2613
Readopt without Changes*	
<u>Determination of Voc Emission Control System Efficiency</u>	15A NCAC 02D .2614
Readopt with Changes*	
<u>Fluorides</u>	15A NCAC 02D .2616
Readopt with Changes*	
<u>Total Reduced Sulfur</u>	15A NCAC 02D .2617
Readopt without Changes*	
<u>Mercury</u>	15A NCAC 02D .2618
Readopt with Changes*	
<u>Arsenic, Beryllium, Cadmium, Hexavalent Chromium</u>	15A NCAC 02D .2619
Readopt without Changes*	
<u>Dioxins and Furans</u>	15A NCAC 02D .2620
Readopt without Changes*	
<u>Determination of Pollutant Emissions Using the F Factor</u>	15A NCAC 02D .2621
Readopt with Changes*	

WILDLIFE RESOURCES COMMISSION

The rules in Subchapter 10H concern activities regulated by the Commission including controlled hunting preserves for domestically raised game birds (.0100), holding wildlife in captivity (.0300), commercial trout ponds (.0400), fish propagation (.0700), falconry (.0800), game bird propagators (.0900), taxidermy (.1000), furbearer propagation (.1100), controlled fox hunting preserves (.1200), and reptiles and amphibians (.1300).

<u>Game Bird Propagation License</u>	15A NCAC 10H .0901
Readopt with Changes*	
<u>Acquisition of Birds or Eggs</u>	15A NCAC 10H .0903
Readopt with Changes*	
<u>Disposition of Birds or Eggs</u>	15A NCAC 10H .0904
Readopt with Changes*	
<u>Transportation</u>	15A NCAC 10H .0905
Amend*	
<u>Records</u>	15A NCAC 10H .0906
Amend*	
<u>Quail Call-Pen Traps</u>	15A NCAC 10H .0907

Amend*	
<u>Application for Licensure</u>	15A NCAC 10H .1101
Amend*	
<u>License Authorization</u>	15A NCAC 10H .1102
Repeal*	
<u>Posting and Display of License</u>	15A NCAC 10H .1103
Repeal*	
<u>Cages</u>	15A NCAC 10H .1104
Amend*	
<u>Sanitation and Care</u>	15A NCAC 10H .1105
Repeal*	
<u>Humane Treatment</u>	15A NCAC 10H .1106
Readopt with Changes*	
<u>Records</u>	15A NCAC 10H .1107
Amend*	
<u>Inspections</u>	15A NCAC 10H .1108
Repeal*	
<u>Commercial Take of Certain Turtles Prohibited</u>	15A NCAC 10H .1301
Amend*	
<u>Possession of Reptiles and Amphibians</u>	15A NCAC 10H .1302
Amend*	

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Chapter 13 concern Solid Waste Management. The rules in Subchapter 13B concern Solid Waste Management including general provisions (.0100); permits for solid waste management facilities (.0200); treatment and processing facilities (.0300); transfer facilities (.0400); disposal sites (.0500); monitoring requirements (.0600); administrative penalty procedures (.0700); septage management (.0800); yard waste facilities (.0900); solid waste management loan program (.1000); scrap tire management (.1100); medical waste management (.1200); disposition of remains of terminated pregnancies (.1300); municipal solid waste compost facilities (.1400); standards for special tax treatment of recycling and resource recovery equipment and facilities (.1500); requirements for municipal solid waste landfill facilities (.1600); and requirements for beneficial use of coal combustion by-products (.1700).

<u>Definitions</u>	15A NCAC 13B .1201
Readopt with Changes*	
<u>General Requirements for Medical Waste</u>	15A NCAC 13B .1202
Readopt with Changes*	
<u>Requirements for Regulated Medical Waste Generators, Tran...</u>	15A NCAC 13B .1203
Readopt with Changes*	
<u>Requirements for the Treatment of Regulated Medical Waste</u>	15A NCAC 13B .1204
Readopt with Changes*	
<u>Requirements for Transporters of Regulated Medical Waste</u>	15A NCAC 13B .1205
Readopt/Repeal*	
<u>Requirements for Storage of Regulated Medical Waste</u>	15A NCAC 13B .1206
Readopt/Repeal*	
<u>Operational Req/Regulated Medical Waste Treatment Facilities</u>	15A NCAC 13B .1207
Readopt/Repeal*	
<u>Requirement for Permit</u>	15A NCAC 13B .1401
Readopt with Changes*	
<u>General Provisions for Solid Waste Compost Facilities</u>	15A NCAC 13B .1402
Readopt with Changes*	
<u>General Prohibitions for Solid Waste Compost Facilities</u>	15A NCAC 13B .1403
Readopt with Changes*	

<u>Siting/Design Requirements for Solid Waste Compost Facili...</u> Readopt with Changes*	15A NCAC 13B .1404
<u>Application Requirements for Solid Waste Compost Facilities</u> Readopt with Changes*	15A NCAC 13B .1405
<u>Operational Requirements for Solid Waste Compost Facilities</u> Readopt with Changes*	15A NCAC 13B .1406
<u>Classification, Testing, and Distribution of Solid Waste ...</u> Readopt with Changes*	15A NCAC 13B .1407
<u>Recordkeeping and Reporting Requirements</u> Readopt with Changes*	15A NCAC 13B .1408
<u>Alternative Procedures, Vermicomposting, and Anaerobic Di...</u> Readopt with Changes*	15A NCAC 13B .1409
<u>Closure Requirements</u> Adopt*	15A NCAC 13B .1410

FUNERAL SERVICE, BOARD OF

The rules in Subchapter 34A concern board functions including general provisions (.0100); and fees and other payments (.0200).

<u>Fees and Other Payments</u> Readopt with Changes*	21 NCAC 34A .0201
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The rules in Subchapter 34B are funeral service rules including rules relating to resident trainees (.0100); examinations (.0200); licensing (.0300); continuing education (.0400); out-of-state licensees (.0500); funeral establishments (.0600); and preparation of dead bodies (.0700).

<u>Practice of Funeral Service or Funeral Directing Not as a...</u> Readopt with Changes*	21 NCAC 34B .0310
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The rules in Subchapter 34C concern crematories including general provisions (.0100); equipment and processing (.0200); and authorizations, reports, records (.0300).

<u>Monthly Reports</u> Readopt with Changes*	21 NCAC 34C .0305
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The rules in Subchapter 34D are preneed funeral contract rules including general provisions (.0100); licensing (.0200); operations (.0300); and preneed recovery fund (.0400).

<u>Preneed Funeral Contract Copies to be Filed</u> Readopt with Changes*	21 NCAC 34D .0105
<u>Surety Bonds</u> Readopt with Changes*	21 NCAC 34D .0203
<u>Certificate of Performance</u> Readopt with Changes*	21 NCAC 34D .0303

CONTESTED CASE DECISIONS

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

OFFICE OF ADMINISTRATIVE HEARINGS**Chief Administrative Law Judge****JULIAN MANN, III****Senior Administrative Law Judge****FRED G. MORRISON JR.****ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter
Don Overby
J. Randall May
David Sutton
Tenisha Jacobs

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

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<u>Published</u>			
18	CPS	06339	7/17/2019	Brenda Rene Branch	v.	North Carolina Crime Victims Compensation Commission	Lassiter
18	DHR	05219	7/2/2019	Nicole Baines Sauls	v.	NC Department of Health & Human Services Division of Health Service Regulations	Jacobs
18	DHR	07276	7/29/2019	Audiasha Walker	v.	Department of Health and Human Services, Division of Health Service Regulation	Sutton
19	DHR	00851	7/25/2019	Debra P Dennis	v.	DHHS DHSR	Sutton
19	DHR	02667	7/12/2019	E C Canada & Associates Inc Timothy DeVane Daniel Canada Ethelean Canada and Dwight Canada	v.	Special Nutrition Programs Nutrition Services Branch Division of Public Health Womens and Childrens Health Section	Overby
19	DHR	03052; 03053; 03054	7/12/2019	Sherry Gentry/ HOPE; Sandra Kirkman/ HOPE; Douglas Jackson/HOPE	v.	NC Department of Health and Human Services, Nutrition Services, Child & Adult Care Food Program	Overby
19	DOJ	01620	7/29/2019	Randy Camacho	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
18	EDC	07001	7/3/2019	Kristyn Daney	v.	State Board of Education	May

CONTESTED CASE DECISIONS

				<u>Unpublished</u>			
19	ABC	00212	7/29/2019	Mr and Mrs Nunez Enterprise LLC Tabu Bar and Lounge	v.	Alcoholic Beverage Control Commission	Mann
19	ABC	02353	7/26/2019	NC Alcoholic Beverage Control Commission	v.	Tipsy Crow LLC T/A Tipsy Crow	Mann
19	ABC	03293	7/9/2019	Town of Wrightsville Beach North Carolina	v.	North Carolina Alcoholic Beverage Control Commission	Culpepper
19	CPS	02112	7/8/2019	Alex C Williams	v.	NC Crime Victims Compensation Commission	Mann
19	CPS	02113	7/8/2019	Ray Darnell Smith Jr	v.	NC Crime Victims Compensation Commission	Mann
18	CSE	06941	7/8/2019	Michael T Holloway	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Jacobs
18	CSE	06986	7/12/2019	Thomas N Baker III	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
18	CSE	07083	7/2/2019	Sharon F Springfield	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
19	CSE	00009	7/24/2019	Kory Lee Helm	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Mann
19	CSE	00147	7/11/2019	Larri Hillian	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Mann
19	CSE	00833	7/25/2019	Ollie L Shamburger Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Mann
19	CSE	01321	7/8/2019	Rodney K Kirby	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Jacobs
19	CSE	01504	7/22/2019	Ronald L Roberts	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Malherbe
19	CSE	01872	7/26/2019	Derrick Nicholson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
19	CSE	02532	7/24/2019	Cory T Wilkerson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
19	CSE	03357	7/1/2019	Luigi Alessandro Jac Lorfilis	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Lassiter
19	CSE	03937	7/29/2019	Jorge A Salaverria	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Bawtinhimer

CONTESTED CASE DECISIONS

18	DCS	05919	7/16/2019	Alexis McNeil	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
19	DCS	02534	7/5/2019	Willie J Moss	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
19	DHR	00925	7/9/2019	Mamie Covington	v.	Health Care Registry	Jacobs
19	DHR	01589	7/19/2019	Marilene Comai Gilewala	v.	Department of Health and Human Services Division of Health Service Regulation	Malherbe
19	DHR	01873	7/8/2019	Iryna Martynyuk Vals Place Inc	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Jacobs
19	DHR	01927	7/2/2019	Adline Evans Patterson	v.	Department of Health and Human Services, Division of Health Service Regulation	May
19	DHR	01930	7/8/2019	Sharpe and Williams Kesha Spaulding	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Mann
19	DHR	02055	7/8/2019	Iryna Martynyuk Vals Place Inc	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Jacobs
19	DHR	02214	7/19/2019	Janice Mabe	v.	Rockingham County Department of Social Services	May
19	DHR	02457	7/8/2019	Natasia Nicole Knight	v.	North Carolina Health and Human Services, Division of Health Service Regulation	Jacobs
19	DHR	02793	7/18/2019	Samantha Davis	v.	NC Department of Health and Human Services, Division of Child Development and Early Education	Malherbe
19	DHR	02905	7/24/2019	Voca dba Community Alternative NC	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section 2718 Mail Service Center Raleigh NC 27699-2718	Sutton
19	DHR	03064	7/24/2019	Litoya Mikel	v.	NC Department of Health and Human Services	Sutton
19	DOJ	02114	7/9/2019	Lydia Waddell	v.	NC Sheriffs Education and Training Standards Commission	Jacobs
19	DOJ	02496	7/29/2019	Enricque Boyd	v.	North Carolina Criminal Justice Education and Training Standards Commission	May
19	DOJ	02982	7/15/2019	Justin Ryan Thomas	v.	NC Sheriffs Education and Training Standards Commission	Elkins
19	INS	01906	7/8/2019	Dr Daniel N Adams	v.	North Carolina State Health Plan	Jacobs
19	SOS	01866	7/22/2019	Stanley Bernard Anderson	v.	Secretary of State	May
19	UNC	01645	7/19/2019; 7/29/2019	Janet Davis	v.	University of North Carolina Hospitals	Mann