

NORTH CAROLINA REGISTER

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January 15, 2021

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NORTH CAROLINA REGISTER
Publication Schedule for January 2021 – December 2021

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
35:13	01/04/21	12/08/20	01/19/21	03/05/21	03/22/21	04/15/21	05/01/21	10/01/21
35:14	01/15/21	12/21/20	01/30/21	03/16/21	03/22/21	04/15/21	05/01/21	10/12/21
35:15	02/01/21	01/08/21	02/16/21	04/05/21	04/20/21	05/20/21	06/01/21	10/29/21
35:16	02/15/21	01/25/21	03/02/21	04/16/21	04/20/21	05/20/21	06/01/21	11/12/21
35:17	03/01/21	02/08/21	03/16/21	04/30/21	05/20/21	06/17/21	07/01/21	11/26/21
35:18	03/15/21	02/22/21	03/30/21	05/14/21	05/20/21	06/17/21	07/01/21	12/10/21
35:19	04/01/21	03/11/21	04/16/21	06/01/21	06/21/21	07/15/21	08/01/21	12/27/21
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35:22	05/17/21	04/26/21	06/01/21	07/16/21	07/20/21	08/19/21	09/01/21	02/11/22
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36:01	07/01/21	06/10/21	07/16/21	08/30/21	09/20/21	10/21/21	11/01/21	03/28/22
36:02	07/15/21	06/23/21	07/30/21	09/13/21	09/20/21	10/21/21	11/01/21	04/11/22
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36:06	09/15/21	08/24/21	09/30/21	11/15/21	11/22/21	12/16/21	01/01/22	06/12/22
36:07	10/01/21	09/10/21	10/16/21	11/30/21	12/20/21	01/20/22	02/01/22	06/28/22
36:08	10/15/21	09/24/21	10/30/21	12/14/21	12/20/21	01/20/22	02/01/22	07/12/22
36:09	11/01/21	10/11/21	11/16/21	01/03/22	01/20/22	02/17/22	03/01/22	07/29/22
36:10	11/15/21	10/22/21	11/30/21	01/14/22	01/20/22	02/17/22	03/01/22	08/12/22
36:11	12/01/21	11/05/21	12/16/21	01/31/22	02/21/22	03/17/22	04/01/22	08/28/22
36:12	12/15/21	11/22/21	12/30/21	02/14/22	02/21/22	03/17/22	04/01/22	09/11/22

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

December 08, 2020

EXECUTIVE ORDER NO. 181

IMPLEMENTING A MODIFIED STAY AT HOME ORDER AND REQUIRING NIGHT-TIME CLOSURE FOR CERTAIN BUSINESSES AND ACTIVITIES FOR ALL NORTH CAROLINIANS DURING OVERNIGHT HOURS

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-173, 176-177, and 180; and

WHEREAS, the undersigned has taken a science and data-driven approach to implementing public health measures to curb the spread of the virus and to advance the state's economy in a safe and effective way, which is in the best interests of all North Carolinians; and

WHEREAS, on September 30, 2020, the undersigned issued Executive Order No. 169, which transitioned the state into Phase 3 of its COVID-19 response; and

WHEREAS, concerning trends in COVID-19 metrics following the issuance of Executive Order No. 169 led the undersigned to extend the measures of Executive Order No. 169 under Executive Order Nos. 170, 176, and 180, and to implement further protective actions, including reducing the mass gathering limit on indoor gatherings and requiring Face Coverings in additional settings; and

WHEREAS, since the issuance of Executive Orders Nos. 169, 170, 176 and 180, COVID-19 continues to spread at an alarming rate nationally and in North Carolina; and

WHEREAS, as of the date of this Executive Order, the United States is experiencing a significant increase in the number of people diagnosed with COVID-19, currently averaging more

than fifteen hundred (1,500) daily COVID-19 deaths (over a seven-day average), with more than two hundred and eighty thousand (280,000) American lives lost since the start of the pandemic; and

WHEREAS, the significant increase in COVID-19 case counts across the nation, and the attendant strain on health care system capacity, has required other states and localities in recent days and weeks to impose or reimpose stricter measures on business operations, activities, and public and private gatherings; and

WHEREAS, in North Carolina in recent weeks COVID-19 daily diagnoses have been at their highest point to-date since the onset of the pandemic, in part, but not entirely, because of increased testing across the state; and

WHEREAS, despite increased testing, there have been recent and sustained increases, compared to earlier levels, in the percent of total COVID-19 tests that are positives, the percent of emergency department visits that are for COVID-19-like illnesses, and in the number of COVID-19-associated hospitalizations; and

WHEREAS, in North Carolina in recent weeks, COVID-19-associated hospitalizations have been at record highs, and daily deaths attributable to COVID-19 have been at or near record highs; and

WHEREAS, between November 21 and December 4, 2020, over three-fourths of North Carolina counties were experiencing “substantial (orange)” or “critical (red)” COVID-19 community spread, according to the County Alert System developed by the North Carolina Department of Health and Human Services’ (“NCDHHS”), which evaluates a county’s COVID-19 case counts, percent positives, and hospital capacity; and

WHEREAS, more than four hundred and four thousand (404,000) people in North Carolina have been diagnosed with COVID-19, and more than five thousand six hundred (5,600) people in North Carolina have died from the disease; and

WHEREAS, health care professionals and public health experts expect further increases in the number of people diagnosed with COVID-19 and associated hospitalizations following gatherings over the Thanksgiving holiday; and

WHEREAS, in other states, COVID-19 hospitalizations are exceeding the capacity of the health care system to provide care, leading to deaths that could have been avoided; and

WHEREAS, it is essential that North Carolina slow down the increase in the number of people diagnosed with COVID-19 to preserve as much as possible of North Carolina’s remaining health care capacity; and

WHEREAS, urgent and immediate action is therefore necessary to protect the lives of North Carolinians and to avoid further strain on the state’s health care system capacity and other health care resources across the state; and

Required Night-Time Closure for Certain Businesses and Activities;
Stay at Home Advisory for All North Carolinians

WHEREAS, restricting the hours of operation of certain businesses, particularly night-time hours when individuals may gather in larger numbers and engage in conduct that poses a heightened risk of spread of COVID-19, will limit the congregation of individuals in those establishments and therefore reduce the risk of virus spread; and

WHEREAS, for their own health and safety as well as the health and safety of their communities, all North Carolinians are required to stay at home and travel only for work or to obtain essential goods or services during the hours of 10:00 PM and 5:00 AM each day for the duration of this Executive Order; and

WHEREAS, all North Carolinians are recommended to stay at home and work from home whenever possible; and

WHEREAS, at all times that North Carolinians are outside of their homes, they must engage in social distancing and wear Face Coverings while they are indoors, or if they are outdoors and may be within six (6) feet of people who are not part of the same household; and

WHEREAS, there is an increased risk of COVID-19 spread in community events and social gatherings when people from different households gather; and

Continued Need for a Phased, “Dimmer Switch” Approach to Restrictions Loosened under Phase 3 Executive Order

WHEREAS, to slow the spread of COVID-19 and reduce COVID-19 morbidity and mortality, it remains necessary to use a phased, “dimmer switch” approach to reducing restrictions on businesses and activities, since the loosening of each restriction on businesses and activities adds incremental risk and thereby increases the aggregate risk of spread of COVID-19; and

WHEREAS, certain types of businesses by their very nature present greater risks of the spread of COVID-19 because of the nature of the activity, the way that people have traditionally acted and interacted with each other in that space, and the duration that people stay in the establishment; and

WHEREAS, to lower the risk of contracting and transmitting COVID-19, the Phase 3 Executive Order imposed restrictions on certain businesses designed to limit the number of contacts between people, particularly in settings in which people exert increased respiratory effort, that are indoors, that involve people being in close physical contact for an extended period of time (more than 15 minutes), or that involve a large number of people; and

WHEREAS, for the reasons stated herein and pursuant to the authority set forth below, the undersigned finds it reasonable and necessary to continue the Phase 3 capacity limitations and other public health restrictions for the duration of this Executive Order; and

Phase 3 Capacity and other Public Health Restrictions Remain in Place for the Below Venues

Amusement Parks

WHEREAS, amusement parks feature lower risks of spreading COVID-19 in their outdoor areas, so long as waiting lines remain socially distanced and high-touch areas are disinfected; and

WHEREAS, amusement parks and amusement-park-like transportation may therefore remain open, subject to capacity limitations, Face Covering requirements, measures to ensure that people remain socially distanced, signage requirements, and cleaning requirements; and

WHEREAS, indoor rides and attractions must remain closed, because indoor rides may bring large groups of people together, without the ability to social distance, and who may scream or shout, spreading respiratory droplets in a confined space without air circulation; and

Bars, Night Spots, and Arenas

WHEREAS, across the country, COVID-19 spread has been repeatedly linked to Bars (as defined below), and in many states, rises in case counts have been temporally associated with the reopening of Bars; and

WHEREAS, in Bars, people’s risk of spreading COVID-19 is higher for many reasons, including because people traditionally engage in activities in Bars that result in increased respiratory effort, because people traditionally mingle in Bars and are in close physical contact for an extended period of time, and because people are less cautious when they drink alcoholic beverages; and

WHEREAS, these risks are mitigated, although not eliminated, in outdoor spaces where air circulates freely; and

WHEREAS, for these reasons and others, it is prudent to continue to limit Bar operation by requiring that all Guests be seated at tables and counters, separating Guests so that different groups are socially distanced, and by closing all indoor seating areas; and

WHEREAS, lounges, music halls, night clubs, adult entertainment facilities, and stadiums share many of the same risks as Bars, but these risks can be mitigated if capacity restrictions are put in place and if the facility is required to be seated, which will counteract the tendency of Guests in these facilities to mingle and spread COVID-19 among one another like they are in a Bar; and

WHEREAS, larger crowds in entertainment venues increase the likelihood of a super-spreading event, and therefore crowds must be limited to an overall maximum limit; and

WHEREAS, because COVID-19 spreads more easily in indoor settings, this overall maximum limit must be lower in indoor settings; and

WHEREAS, to reduce the risk of spread of COVID-19, these facilities should also operate under Face Covering requirements, signage requirements, and cleaning requirements; and

Movie Theaters, Meeting Spaces, and Entertainment Facilities

WHEREAS, the COVID-19 risks for movie theaters, hotels, conference centers, and other event spaces can be mitigated, although not entirely eliminated, if capacity restrictions are put in place and if Guests do not circulate around the establishment to socialize with each other; and

WHEREAS, to reduce the risk of spread of COVID-19, when movie theaters, meeting spaces, and entertainment facilities reopen or host larger events, they must be subject to capacity limitations, Face Covering requirements, measures to ensure that people remain socially distanced, signage requirements, and cleaning requirements; and

Outdoor Facilities With Capacity of At Least 10,000 Seats

WHEREAS, Guests at very large outdoor facilities (facilities with more than 10,000 seats) for entertainment and sporting events have a lower risk of contracting and transmitting COVID-19 because air circulates freely in outdoor spaces and because people can easily spread out in very large spaces by staying six (6) feet apart; and

WHEREAS, Guests at very large outdoor facilities for entertainment and sporting events also have a lower risk of contracting and transmitting COVID-19 because very large facilities have multiple entrances and exits and larger concourses, reducing crowding and allowing guests to maintain adequate social distance from one another as they move around the facility; and

WHEREAS, the risk at very large outdoor facilities is also lowered because these facilities have the resources, staff, and capability to design, implement, and enforce enhanced health and safety measures for Guests; and

WHEREAS, the undersigned determined that very large outdoor facilities may allow more guests than previously allowed, but because of the risks that continue to exist for any place where larger groups of people gather, the very large outdoor facilities that are reopening must be subject to capacity restrictions that will limit spectators to a small fraction of such facilities' capacity; and

WHEREAS, to reduce the risk of spread of COVID-19, when the very large outdoor facilities accommodate more Guests, they also must be subject to capacity limitations, Face Covering requirements, measures to ensure that people remain socially distanced, signage requirements, and cleaning requirements; and

Sale and Service of Alcoholic Beverages for On-Site Consumption to End at 9:00 p.m.

WHEREAS, the Centers for Disease Control and Prevention ("CDC") and NCDHHS have stated that the consumption of alcohol lowers inhibitions and makes people more likely to engage in behaviors that increase the risk of spread of COVID-19; and

WHEREAS, the consumption of alcohol makes people less likely to practice social distancing or wear Face Coverings that are required by this Executive Order and to prevent the spread of COVID-19; and

WHEREAS, people who are drinking beverages cannot consistently wear Face Coverings; and

WHEREAS, when people gather to consume alcohol in public, they often speak loudly, laugh, yell, or sing, spreading respiratory droplets that may contain the COVID-19 virus; and

WHEREAS, national and international outbreaks of COVID-19 have been linked to places like bars, clubs, and restaurants where people consume alcohol in close proximity to one another, and to super-spreading events in which a single person infects a large number of people; and

WHEREAS, data reveals that there is an increase in the number of younger individuals who are being infected by COVID-19; and

WHEREAS, for the reasons stated herein and pursuant to the authority set forth below, the undersigned finds it reasonable and necessary to restrict the sale and consumption of alcoholic beverages from 9:00 p.m. through 7:00 a.m. for the duration of this Executive Order; and

Indoor and Outdoor Gathering Limits Remain in Place to Protect Public Health

WHEREAS, public health data, contact tracing reports, and outbreak investigations indicate that in-home and other informal social gatherings are contributing to the rise in cases across the state; and

WHEREAS, the state's public health experts have advised that in familiar settings with friends and family, individuals may be more likely to forgo necessary precautions against transmission of COVID-19 such as maintaining social distance or wearing Face Coverings, which contributes to the spread of the virus; and

WHEREAS, to reduce the prevalence of COVID-19 spread linked to social and in-home gatherings and all other settings not otherwise addressed by the undersigned's COVID-19 executive orders in which large groups of individuals tend to gather, the undersigned reduced the Mass Gathering limit for indoor settings from twenty-five (25) individuals to ten (10) individuals under Executive Order No. 176; and

WHEREAS, for the reasons stated herein and pursuant to the authority set forth below, the indoor mass gathering limit of ten (10) person and the outdoor mass gathering limit of fifty (50) persons remain necessary to continue for the duration of this Executive Order; and

Face Coverings Continue to Be Required in All Public Indoor Settings

WHEREAS, Face Coverings are a low-cost and highly effective way of mitigating the spread of COVID-19, and, if adopted widely by all North Carolinians, may help to prevent further re-closures of the state's businesses and operations; and

WHEREAS, guidance from the CDC indicates that the use of a Face Covering can provide some protection from COVID-19 for the wearer, in addition to protecting those around the wearer; and

WHEREAS, the effectiveness of Face Coverings has been shown by multiple studies, as cited in the recitals for Executive Order No. 180, and these studies use differing research methods; and

WHEREAS, to mitigate the spread of COVID-19, particularly in indoor settings where the virus is transmitted more easily, the undersigned issued Executive Order No. 180 which required Face Coverings to be worn in all indoor public settings where other individuals may be present, regardless of one's perceived ability to maintain physical distance of at least six (6) feet; and

WHEREAS, businesses in North Carolina must do their part to “flatten the curve” of COVID-19 in North Carolina, by ensuring their employees and Guests wear Face Coverings at all times while on their premises, and by denying entry to those Guests who do not wear Face Coverings, unless an exception to the requirement applies; and

WHEREAS, Face Coverings should continue to be worn outdoors when it is not possible to consistently be physically distant, by at least six (6) feet, from non-household members; and

WHEREAS, for the reasons stated herein and pursuant to the authority set forth below, the Face Covering requirements established by Executive Order No. 180 and the undersigned’s previous executive orders remain necessary to continue for the duration of this Executive Order; and

Statutory Authority and Determinations

WHEREAS, Executive Order No. 116 invoked 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, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate Gubernatorial vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.12(3)(e), the Division of Emergency Management must coordinate with the State Health Director to revise the North Carolina Emergency Operations Plan as conditions change, including making revisions to set “the appropriate conditions for quarantine and isolation in order to prevent the further transmission of disease,” and following this coordination, the Emergency Management Director and the State Health Director have recommended that the Governor develop and order the plan and actions identified in this Executive Order; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.23 in conjunction with N.C. Gen. Stat. §§ 75-37 and 75-38, the undersigned may issue a declaration that shall trigger the prohibitions against excessive pricing during states of disaster, states of emergency or abnormal market disruptions; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

WHEREAS, although the NCDHHS County Alert system has identified certain counties as having higher levels of community transmission in recent data, the professionals delegated the responsibility to maintain the County Alert system have determined that every county has a dangerous rate of community transmission of the virus — reflected in every county in the state being rated at least at “significant (yellow)” risk; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(i), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because not all local authorities have enacted such appropriate ordinances or issued such appropriate declarations restricting the operation of

businesses and limiting person-to-person contact, thus needed control cannot be imposed locally; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(ii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because some but not all local authorities have taken implementing steps under such ordinances or declarations, if enacted or declared, in order to effectuate control over the emergency that has arisen; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because the area in which the emergency exists spreads across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iv), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection of lives and property of North Carolinians because the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1) authorizes the undersigned to prohibit and restrict the movement of people in public places; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1)(a) authorizes the undersigned to impose a curfew; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1)(d) authorizes the undersigned to control the movement of persons within the emergency area; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(2) authorizes the undersigned to prohibit and restrict the operation of offices, business establishments, and other places to and from which people may travel or at which they may congregate; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(3) authorizes the undersigned to restrict the possession, transportation, sale, purchase, and consumption of alcoholic beverages; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(5) authorizes the undersigned to prohibit and restrict other activities or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during a state of emergency; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(1), when the undersigned imposes the prohibitions and restrictions enumerated in N.C. Gen. Stat. § 166A-19.31(b), the undersigned may amend or rescind the prohibitions and restrictions imposed by local authorities.

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. Introduction.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

1.1. Definitions.

- a. “Amusement Park” has the definition at N.C. Gen. Stat. § 95-111.3, except that it does not include waterslides as defined by N.C. Gen. Stat. § 95-111.3(h).

- b. “Amusement Transportation” means tour buses, tour trains, or other scenic and sightseeing transportation that is principally offered and used for amusement, regardless of whether such transportation is located in an Amusement Park.
- c. “Bars” means establishments that are not eating establishments or restaurants as defined in N.C. Gen. Stat. §§ 18B-1000(2) and 18B-1000(6), that have a permit to sell alcoholic beverages for onsite consumption under N.C. Gen. Stat. § 18B-1001, and that are principally engaged in the business of selling alcoholic beverages for onsite consumption.
- d. “Core Signage, Screening and Sanitation Requirements” are the following actions which establishments open to the public under the terms of this Executive Order must follow, namely:
 - 1. Post the Emergency Maximum Occupancy in a noticeable place.
 - 2. Post signage reminding Guests and workers about social distancing (staying at least six (6) feet away from others) and requesting that people who have been symptomatic with fever and/or cough not enter.
 - 3. Conduct daily symptom screening of workers, using a standard interview questionnaire of symptoms before workers enter the workplace.
 - 4. Immediately isolate and remove sick workers.
 - 5. Perform frequent and routine environmental cleaning and disinfection of high-touch areas with an EPA-approved disinfectant for SARS-CoV-2 (the virus that causes COVID-19).
- e. “Emergency Maximum Occupancy” means the maximum occupancy for a facility (or room within a facility, as applicable) under this Executive Order.
- f. “Face Covering” means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears and fits snugly against the side of a person’s face. A Face Covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a Face Covering has two (2) or more layers. A Face Covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels. These Face Coverings are not intended for use by healthcare providers in the care of patients.

Based on recommendations from the CDC, face shields do not meet the requirements for Face Coverings.
- g. “Guest” means any attendee, customer, guest, member, patron, spectator, or other person lawfully on the property of another that does not own the property or work at the property.
- h. “N95 Respirator” means a Face Covering approved by the National Institute for Occupational Safety and Health (“NIOSH”) or a respirator from another country allowed by the Occupational Safety & Health Administration, the Food & Drug Administration, or the CDC. N95 respirators are not recommended for general public use or use in public settings, as they should be reserved for healthcare providers and other medical first responders in a health care setting. However, if worn, N95 respirators would meet both the Face Covering and Surgical Mask requirements of this Executive Order.
- i. “Night-Time Public Closure Period” is defined in Subsection 3.17 below.
- j. “Personal Care, Grooming, and Tattoo Businesses” means businesses that (i) do not provide health care services; and (ii) either (1) have workers directly touch Guests or (2) have a piece of equipment (other than a touchscreen) repeatedly come into contact directly with Guests’ skin. This includes, but is not limited to, barber shops, beauty salons (including but not limited to waxing and hair removal centers), hair salons, nail salons, manicure or pedicure providers, tattoo businesses, tanning salons, and massage therapists.

- k. “Playground” means a recreation area for children equipped with playground equipment, including but not limited to soft contained play equipment, swings, seesaws, slides, stationary spring-mounted animal features, jungle gyms, rider-propelled merry-go-rounds, and trampolines.
- l. “Recommendations to Promote Social Distancing and Reduce Transmission” are defined in Subsection 1.4 below.
- m. “Restaurants” means permitted food establishments, under N.C. Gen. Stat. § 130A-248, and other establishments that both prepare and serve food. This includes, but is not limited to, restaurants, cafeterias, food halls, dining halls, food courts, and food kiosks. This includes not only free-standing locations but also locations within other businesses or facilities, including, but not limited to airports, shopping centers, educational institutions, or private or members-only clubs where food and beverages are permitted to be consumed on premises.
- n. “Retail Business” means any business in which Guests enter a space to purchase goods or services, including but not limited to grocery stores, convenience stores, large-format retail stores, pharmacies, banks, and ABC stores. This also includes, but is not limited to, (i) retail establishments operated by the state, its political subdivisions, or agencies thereof, and (ii) state agencies under the jurisdiction of the undersigned which have a public-facing component offering a service, such as the Division of Motor Vehicles, the North Carolina Department of Revenue, and shops in North Carolina Department of Natural and Cultural Resources facilities.
- o. “Surgical Mask” means American Society for Testing and Materials (“ASTM”) Level 1, 2, or 3 approved procedural and surgical masks.
- p. “Very Large Outdoor Facilities” are defined in Subsection 6.1 below.

1.2. **Exemptions.**

Worship, religious, and spiritual gatherings, funeral ceremonies, wedding ceremonies, and other activities constituting the exercise of First Amendment rights are exempt from all the requirements of this Executive Order, notwithstanding any other provision of this Executive Order.

The undersigned strongly urges that entities and individuals engaging in these exempted activities follow the Recommendations to Promote Social Distancing and Reduce Transmission, wear and require Face Coverings, and avoid exceeding Emergency Maximum Occupancy in the places where they meet.

1.3. **Structure of This Executive Order.**

To control the spread of COVID-19 and protect lives during the State of Emergency, this Section lists restrictions on the operations of business establishments and other places to or from which people may travel or at which they may congregate. Businesses or operations within the scope of Sections 2 to 6 are prohibited from operating unless they follow all applicable restrictions stated in these sections.

1.4. **General Recommendations.**

- a. **High-Risk Individuals Encouraged to Stay at Home.** Even if otherwise permitted to do so under this Executive Order, people who are at high risk of severe illness from COVID-19 are very strongly encouraged to stay home and travel only for absolutely essential purposes. The CDC defines high-risk individuals as people 65 years or older and people of any age who have serious underlying medical conditions, including people who are immunocompromised or who have cancer, chronic lung disease, serious heart conditions, severe obesity, diabetes, chronic kidney disease, sickle cell disease, or Type 2 diabetes mellitus.

- b. **Follow the Recommendations to Promote Social Distancing and Reduce Transmission.** When people are outside their homes, they are strongly encouraged to follow the following Recommendations to Promote Social Distancing and Reduce Transmission:
1. Maintain at least six (6) feet social distancing from other individuals, with the exception of family or household members.
 2. Wear a Face Covering over the nose and mouth when leaving home and wear it inside all public settings such as grocery stores, pharmacies, or other retail or public-serving businesses. A Face Covering should also be worn outdoors when you cannot maintain at least six (6) feet distancing from other people with the exception of family or household members.
 3. Carry hand sanitizer with you when leaving home, and use it frequently.
 4. Wash hands using soap and water for at least twenty (20) seconds as frequently as possible.
 5. Regularly clean high-touch surfaces such as steering wheels, wallets, and phones.
 6. Avoid large gatherings.
 7. Stay at home if sick.

Section 2. Face Coverings.

For the avoidance of doubt, this Section generally requires North Carolinians to wear Face Coverings in public places, both indoors and outdoors. This Section also authorizes law enforcement to enforce Face Covering requirements against individuals who fail to wear a Face Covering outside the home without any applicable exception. Where a question might arise as to whether an individual who is able to wear a Face Covering in North Carolina is required to wear one in a certain context, this Executive Order seeks to promote the wearing of Face Coverings.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

- 2.1. **Face Coverings Required In Public Places.**
- a. The undersigned enacts the following restriction on the movement of people in public places and restriction on the operation of offices, business establishments, schools, and other places where people may travel or congregate.
 - b. For any place outside the home, including but not limited to businesses, schools, and other establishments and spaces:
 1. Face Coverings must be worn indoors if anyone else is in that space who is not a member of the same household.
 2. Face Coverings must be worn outdoors if it is not possible to consistently be physically distant by more than six (6) feet from non-household members.
 - c. These requirements shall apply to all people at least five (5) years old, unless an exception applies. These requirements are recommended for all people over the age of two (2) years old.
- 2.2. **Restrictions for Specific Settings.** Section 3 of this Executive Order states a series of specific Face Covering requirements for certain types of businesses and establishments. These requirements are in addition to, and not in lieu of, the general restrictions stated above.
- 2.3. **Employer Good Faith Obligation to Provide Face Coverings.** Employers who have workers who perform work outside of their home in North Carolina and have not already provided Face Coverings for their workers shall make good-faith efforts to provide a one-week supply of reusable Face Coverings or a new disposable Face Covering daily as soon as possible for workers to use at their place of employment. New Face Coverings should be provided during the work day if the worker's Face Covering becomes soiled, torn, or wet.

- 2.4. **Exceptions.** This Executive Order does not require Face Coverings for—and a Face Covering does not need to be worn by—a worker or Guest who:
- a. Should not wear a Face Covering due to any medical or behavioral condition or disability (including, but not limited to, any person who has trouble breathing, or is unconscious or incapacitated, or is otherwise unable to put on or remove the Face Covering without assistance);
 - b. Is under five (5) years of age;
 - c. Is actively eating or drinking;
 - d. Is seeking to communicate with someone who is hearing-impaired in a way that requires the mouth to be visible;
 - e. Is giving a speech for a broadcast or to an audience;
 - f. Is working at home or is in a personal vehicle;
 - g. Is temporarily removing his or her Face Covering to secure government or medical services or for identification purposes;
 - h. Would be at risk from wearing a Face Covering at work, as determined by local, state, or federal regulations or workplace safety guidelines;
 - i. Has found that his or her Face Covering is impeding visibility to operate equipment or a vehicle; or
 - j. Is a child whose parent, guardian, or responsible person has been unable to place the Face Covering safely on the child’s face.

Anyone who declines to wear a Face Covering for these reasons should not be required to produce documentation or any other proof of a condition.

Children under two (2) years of age should not wear a Face Covering.

- 2.5. **Face Coverings and Exercise.**

People must wear Face Coverings while exercising if they are either:

- Outdoors and within six (6) feet of someone who does not reside in the exercising person’s household; or
- Indoors and not within their own home.

However, people need not wear a Face Covering while exercising if:

- One of the exceptions stated in Subsection 2.4 applies;
- They have symptoms while strenuously exercising such as trouble breathing, dizziness, or lightheadedness;
- They are wearing equipment like a mouthguard or helmet and are having trouble breathing;
- They are doing any activity in which the Face Covering could become entangled and a choking hazard or impair vision in high risk activities such as gymnastics, cheerleading, or tumbling; or
- They are doing activities that may cause the Face Covering to become wet, like when swimming or other activities in a pool, lake, water attraction, or similar body of water.

- 2.6. **Face Coverings for Professional or Collegiate Athletes Under a COVID-19 Health and Safety Protocol.** As an exception to the other provisions of this Section, Face Coverings are encouraged, but not required for professional or collegiate athletes if (1) they are strenuously exercising or recovering from exercise and (2) those athletes are training for or participating in a sport that is under the oversight of a league, association, or other organizer that required teams and players to follow a protocol for reducing risk from COVID-19. These athletes must wear Face Coverings, including on sidelines and in practice, at any time that they are not strenuously exercising or recovering from recent exercise.
- 2.7. **How Businesses May Accommodate Exceptions.** If a Guest states that an exception applies, a business may choose to offer curbside service, provide home delivery, or use some other reasonable measure to deliver its goods or services.

2.8. **Enforcement of Face Covering Requirements.**

If a person does not wear a Face Covering in a situation where a Face Covering is required under this Executive Order, and if an exception to the Face Covering requirement does not apply:

- a. Law enforcement officers may cite the people who failed to wear Face Coverings as required by Executive Order; and/or
- b. Law enforcement officers may cite a business or organization that failed to enforce the requirement to wear Face Coverings.

Further, if a business or organization does not allow entry to a worker or Guest because that person refuses to wear a Face Covering, and if that worker or Guest enters the premises and refuses to leave the premises, law enforcement personnel may enforce the trespassing laws and any other laws that the worker or Guest may violate.

2.9. **Schools.** In all public school units, as defined by N.C. Gen. Stat. § 115C-5(7a), and all nonpublic schools covered by Article 39 of Chapter 115C of the General Statutes, all workers, teachers, Guests, other adults and children five (5) years or older must wear Face Coverings both:

- When outdoors and within six (6) feet of another person, unless an exception applies;
- When indoors, at all times, unless an exception applies.

Section 3. Restrictions on Certain Businesses and Operations.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

3.1. **Amusement Parks.** Amusement Parks and Amusement Transportation may reopen and operate under the following restrictions:

a. **Indoor Rides and Attractions Closed.**

1. In an Amusement Park, any ride or attraction that is located indoors must remain closed. The Amusement Park may open indoor Restaurants, concessions, gifts shops or retail spaces, and restrooms.
2. Museums, playgrounds, or other establishments that are open may not operate any indoor motion simulator.

b. **Restrictions.**

1. **Face Coverings.** All workers and Guests must wear Face Coverings when they are or may be on premises or on transportation operated by the establishment.
2. **Capacity Restrictions.**
 - a. **For the Facility As A Whole.** The operator must limit the total number of Guests in the establishment to thirty percent (30%) of the park's normal maximum occupancy.
 - b. **On each Ride or Amusement Transportation.** The operator must limit the number of Guests within each vehicle or car to either:
 - Have all the Guests within a vehicle or car be people who came into the ride loading area together as part of the same group of friends or family; or
 - Ensure six (6) feet of social distancing between each group of friends or family within the vehicle or car.

- c. All other group activities, such as tours, receptions, or parties, are subject to the Mass Gathering limit for outdoor spaces, and twenty-five (25) individuals for indoor spaces.
3. **Other Requirements.** The operator must:
- a. Spread out waiting lines for rides, amusements, and other areas where people may congregate or wait, with each group separated by six (6) feet.
 - b. The operator must mark six (6) feet of spacing along the line and in waiting areas for rides and amusements and other areas where people may congregate or wait.
 - c. Establish a Guest flow plan that limits people massing together throughout the park and when they are entering or exiting the park.
 - d. Increase disinfection during high customer density times.
 - e. Provide alcohol-based hand sanitizer (with at least 60% alcohol) at the entrance and at other areas throughout the premises as needed. Promote frequent use of handwashing and hand sanitizer for workers and Guests.
 - f. Disinfect shared objects and surfaces (such as game surfaces, safety bars, or harnesses) between uses.
 - g. Follow the restrictions set out in Subsections 3.13, 3.14, 3.17, and 4.1 of this Executive Order for any food, beverage, and retail service.
 - h. Follow the Core Signage, Screening and Sanitation Requirements as defined in this Executive Order.
- 3.2. **Bars, Night Spots, and Arenas.**
- a. This Subsection applies to the following:
 - Bars
 - Lounges (such as cigar bars and hookah lounges) in which tobacco or related products are consumed on premises
 - Auditoriums, amphitheaters, arenas, and other venues for live performances
 - Music halls, night clubs, or dance halls
 - Adult entertainment facilities
 - Spectator stands and viewing areas at a sporting facility, stadium, sporting complex, or speedway
 - b. **Must be Seated.** A facility covered by this Subsection is closed unless it is or becomes a seated establishment for Guests.
 - c. **Indoor Restrictions.**
 - 1. **Bars.**
 - Bars' indoor seating areas and indoor amenities (such as pool and billiards tables) must be closed.
 - Bars must not serve alcoholic beverages for on-site consumption in any indoor area on their premises.
 - 2. **Non-Bar Night Spots and Arenas.**
 - Indoor seating areas at all other facilities covered by this Subsection may be open, but are restricted to 25 Guests per facility.
 - All facilities covered by this Subsection must not serve alcoholic beverages for on-site consumption in any indoor area on their premises.
 - d. **Outdoor Restrictions.**
 - 1. **Bars, Night Spots, and Arenas.**
 - Outdoor seating areas may be open at Bars and all other facilities covered by this Subsection. Guests in outdoor areas must be limited to the lesser of:
 - 100 people for the total seating area (or, if there are multiple fields of play or stages, per field of play or per stage); or
 - Thirty percent (30%) of the facility's stated outdoor occupancy before reductions under this Executive Order (or, for spaces

without a stated outdoor occupancy, no more than seven (7) Guests for every one thousand (1000) square feet of the outdoor area's square footage).

- A facility covered by this Subsection may serve alcoholic beverages for on-site consumption in outdoor seating areas on its premises, subject to applicable local and state regulations.

e. Interpretation of Capacity Restrictions in this Subsection.

1. Workers, entertainers, athletes, and any other support staff do not count toward the capacity limits stated in Subsections 3.2(c) and 3.2(d) immediately above.
2. Any facility that meets the definition of "Restaurant" in this Executive Order is covered by Subsection 3.13 of this Executive Order and not this Subsection.
3. A facility is excepted from the limits stated in this Subsection if it is a Very Large Outdoor Facility covered by Section 6 of this Executive Order.
4. Outdoor amenities may be open at Bars and other facilities covered by this Subsection.
5. Nothing in this Executive Order prevents establishments from opening up or expanding outdoor seating areas, subject to applicable local and state regulations.

f. Social Distancing Requirements.

1. Space Out Guests. Each group of Guests must be seated so that they are spaced out by six (6) feet in all directions from other groups of Guests. Each group of Guests sitting at a counter should be separated from other groups by six (6) feet. Entertainers also must stay at least six (6) feet away from any Guest.
2. Ordering Area. Bars not using waitstaff must designate an ordering area at the bar. This area must allow each Guest to wait six (6) feet apart from other Guests. If necessary, Guests may place their orders by coming inside the Bar's building; however, Guests must consume their beverages in outdoor seating areas only.

g. Face Coverings. All workers and Guests must wear Face Coverings when they are or may be within the facility.

h. Other Requirements. Facilities covered by this Subsection must:

1. Restrict late night service of alcoholic beverages as stated in Subsection 4.1 of this Executive Order.
2. Follow the restrictions set out in Subsections 3.13 and 3.17 of this Executive Order for any food or beverage service.
3. Mark six (6) feet of spacing in lines at high-traffic areas for Guests.
4. Promote frequent use of hand-washing and hand sanitizer for wait staff and food service staff throughout the shift and upon reporting to work. Hand washing must at least meet the requirements specified in the North Carolina Food Code Manual.
5. Provide alcohol-based hand sanitizer (with at least 60% alcohol) at the entrance and at other areas throughout the premises as needed. Promote frequent use of handwashing and hand sanitizer for workers and Guests.
6. Increase disinfection during peak times or high Guest density times, and disinfect all shared objects (e.g., payment terminals, tables, countertops/bars, receipt trays, and reusable menus) between use.
7. Follow all applicable requirements in NCDHHS guidelines.
8. Follow the Core Signage, Screening and Sanitation Requirements as defined in this Executive Order.

i. Miscellaneous Provisions on Bars.

1. Clarifications. People sitting at a table need not be members of the same household and do not need to stay six (6) feet apart. Moreover, this Executive Order does not require waitstaff to stay six (6) feet away from Guests.

2. **Off-Site Consumption.** This Executive Order does not direct the closure of retail beverage venues that provide for the sale of beer, wine, and liquor for off-site consumption only. It also does not require the closure of production operations at breweries, wineries, or distilleries.

3.3. **Child Care Facilities.**

- a. **Face Coverings.** Child care facilities must have workers, all other adults, and children five (5) years or older on site wear Face Coverings, unless an exception applies.
- b. **Child Care Facilities May Open and May Serve All Children.** Child care facilities may open or reopen, and they may serve all children in North Carolina. All references to “covered children” in Executive Order Nos. 130 and 138 shall refer to all children.
- c. **Requirements.** Child care facilities that are open or reopened consistent with the Executive Order must abide by the following requirements:
1. Follow all applicable NCDHHS guidelines.
 2. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order.
 3. Conduct a daily health screening on all individuals who are entering the building.
 4. Immediately isolate sick workers and children from the rest of the facility and send them home.
 5. Have a plan to work with local health departments to identify close contacts of confirmed cases in the child care setting.
- d. Before reopening, child care facilities shall submit to NCDHHS the Emergency Child Care Provider Application. NCDHHS must approve the Emergency Child Care Provider Application before the child care facility can reopen.
- e. **Relationship to Other Executive Orders.** Subdivisions 3.3(b) and (c)(1) above completely replace Subsections 2(C) and 2(D) of Executive Order No. 130, Subsections 2(A)-2(B) and 2(E)-(H) of Executive Order No. 130 and Section 3 of Executive Order No. 139 shall continue in effect as specified in Executive Order No. 152, Executive Order No. 177, and any subsequent executive orders.

3.4. **Children’s Day or Overnight Camps.**

- a. Children’s day camps and overnight camps must have workers, all other adults, and children five (5) years or older on site wear Face Coverings, unless an exception applies.
- b. To the extent, if any, that day camps and overnight camps continue to operate during the effective period of this Executive Order, the requirements of Executive Order No. 141 (as amended) which are applicable to Day Camps and Overnight Camps in that Order shall continue to apply to those camps.

3.5. **Fitness and Physical Activity Facilities.**

- a. This Subsection applies to “**Fitness and Physical Activity Facilities.**” defined as any of the following:
- Exercise facilities (e.g., yoga studios, dance studios, ballrooms for dancing, martial arts facilities, gymnastics, indoor trampoline and rock climbing facilities)
 - Gyms
 - Fields of play, including but not limited to basketball courts, baseball fields, volleyball courts, racquetball courts, squash courts, hockey rinks, soccer fields, and tennis courts (with spectators, if any, limited as stated in Subsection 3.2 of this Executive Order)
 - Health clubs and fitness centers
 - Boxing clubs

- Skating rinks
 - Bowling alleys
 - Golf courses and driving ranges
 - Golf ball hitting bays
 - Mini-golf courses
 - Go-cart tracks
 - The track for any speedway or raceway (with spectators, if any, limited as stated in Subsection 3.2 of this Executive Order)
 - Paintball, laser tag, and similar fields and arenas
 - Indoor Playgrounds
- b. Face Coverings. All workers and Guests must wear Face Coverings when they are inside the establishment, regardless of whether they are exercising. The exceptions in Sections 2.4 and 2.5 of this Executive Order apply.
- c. Capacity Restrictions.
1. Indoor Areas. Fitness and Physical Activity Facilities must limit Guests in indoor areas to the lowest number produced by applying the following two tests:
 - a. Overall. Limit the number of Guests in the facility to thirty percent (30%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than seven (7) Guests for every one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests).
 - b. In Any Room. Limit the number of Guests in any given room of the facility so that everyone can stay six (6) feet apart.
 2. Outdoor Areas. Fitness and Physical Activity Facilities must limit Guests in outdoor areas to twelve (12) Guests for every one thousand (1000) square feet.
 3. Games or Events With Spectators. The capacity restrictions for facilities in Subsection 3.2 above, not the capacity restrictions in Subsections 3.5(c)(1)-(2) above, apply to Fitness and Physical Activity Facilities whenever they host a game with spectators.
 4. A Fitness and Physical Activity Facility is excepted from the limits stated in this section if it is a Very Large Outdoor Facility covered by Section 6 of this Executive Order.
- d. Social Distancing Measures.
1. Spread Out Guests and Equipment. Operators of Fitness and Physical Activity Facilities must:
 - a. For activities involving Guests spread out among fixed equipment or lanes, tape off or move the equipment, or restrict access to lanes, so that the Guests conducting the exercise activity are at least six (6) feet apart.
 - b. For group classes or group activities, ensure that all Guests are spaced at least six (6) feet apart. Instructors may come within six (6) feet of students for brief periods of time (less than 15 minutes).
 2. Seating in Waiting Areas. For Guests waiting to take their turn in the activity, operators must space out any seating so that Guests can be socially distanced and stay six (6) feet apart from each other.
- e. Other Requirements. Operators of Fitness and Physical Activity Facilities must:
1. Promote frequent use of hand washing and hand sanitizer for workers and Guests. Require workers to wash hands immediately upon reporting to work,

- after contact with Guests, after performing cleaning and disinfecting activities, and frequently throughout the day.
2. Disinfect all shared equipment between users with an EPA-approved disinfectant for SARS-CoV-2 (the virus that causes COVID-19). Allow the disinfectant to sit for the adequate amount of time stated by the manufacturer. If Guests are to clean equipment, the establishment must provide instructions on how to properly disinfect equipment and on the adequate amount of time that the disinfectant must sit to be effective.
 3. Increase disinfection during peak times or high-population-density times.
 4. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests.
 5. Post the Emergency Maximum Occupancy of any room or other enclosed space at the door to that space.
 6. Follow the restrictions set out in Sections 3.13, 3.17, and 4.1 of this Executive Order for any food and beverage service.
 7. Follow the Core Signage, Screening and Sanitation Requirements as defined in this Executive Order.
- 3.6. **Government Operations.** Unless an exception applies, state government agencies headed by members of the Governor’s Cabinet and the Governor’s Office must have their on-site workers wear Face Coverings when they are indoors. In addition, unless an exception applies, these agencies must require Face Coverings for any outdoor work within six (6) feet of another person. State government agencies headed by members of the Governor’s Cabinet and the Governor’s Office must also follow the requirements for Retail Businesses established in this Executive Order unless necessary to complete that office’s mission. All other state and local government agencies are strongly encouraged to adopt similar policies.
- 3.7. **Health Care Settings.**
- a. **Surgical Masks in Long Term Care Facilities.** All workers in Long Term Care (“LTC”) Facilities, including skilled nursing facilities (“SNF”), adult care homes (“ACH”), family care homes (“FCH”), mental health group homes, and intermediate care facilities for individuals with intellectual disabilities (“ICF-IID”), must wear Face Coverings while in the facility, and those Face Coverings must be Surgical Masks, as long as Surgical Mask supplies are available.
 - b. **Other Health Care Settings.** Health care facilities other than LTC facilities must follow the Face Covering requirements in the CDC Infection Control Guidance for Healthcare Professionals about Coronavirus (COVID-19).
 - c. **Other Requirements.** Additional requirements in health care settings can be found in Executive Order Nos. 130 and 139 and in the Secretarial Orders issued under Executive Order Nos. 152, 165, and 177.
- 3.8. **Movie Theaters, Meeting Spaces, and Entertainment Facilities.**
- a. This Subsection applies to meeting spaces, meeting or reception venues, and any entertainment facilities that are not covered by another provision of this Section of this Executive Order, such as Subsection 3.2 (entitled “Bars, Night Spots, and Arenas”) or Subsection 3.5 (entitled “Fitness and Physical Activity Facilities”). Facilities covered by this Subsection include, but are not limited to, the following types of businesses:
 - Movie theaters
 - Private rooms or other private meeting spaces in a hotel, conference center, meeting hall, or reception venue
 - Bingo parlors, including bingo sites operated by charitable organizations
 - Facilities where the purpose is to engage in games of cards, such as bridge
 - Gaming and business establishments which allow gaming activities (e.g., video games, arcade games, pinball machines or other computer, electronic or mechanical devices played for amusement)

- b. **Social Distancing Requirements.** The following measures limit the degree to which Guests at the facility may come into contact with one another and spread COVID-19.
1. **Must be Seated to Be Open.** A facility covered by this Subsection is closed unless it is or becomes a seated establishment for Guests. Guests must be in seats except to enter, leave, visit the restroom, and obtain food or drink. Facilities should avoid scheduling a standing reception, cocktail hour, or similar event where Guests are encouraged to mingle.
 2. **Space Out Guests.** Each group of Guests must be seated so that they are spaced out by six (6) feet in all directions from other groups of Guests. Each group of Guests sitting at a counter should be separated from other groups by six (6) feet.
- c. **Face Coverings.** All workers and Guests must wear Face Coverings when they are or may be within the facility.
- d. **Capacity.** Facilities covered by this Subsection must limit Guests in the total facility (whether indoor or outdoor) to the lesser of:
- 100 people; or
 - Thirty percent (30%) of stated fire capacity (or, for facilities without a stated fire capacity, no more than seven (7) Guests for every one thousand (1000) square feet of the Guest area's square footage).
- Workers and support staff do not count toward these capacity limits. For hotels or other facilities where private meeting spaces are a portion of a larger facility that is not restricted by this Section of this Executive Order, the limits stated above are measured only for the portion of the facility that is a private meeting space.
- e. **Other Requirements.** Facilities covered by this Subsection must:
1. Restrict late night service of alcoholic beverages as stated in Subsection 4.1 of this Executive Order.
 2. Follow the restrictions set out in Subsections 3.13 and 3.17 of this Executive Order for any food or beverage service.
 3. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests.
 4. Provide alcohol-based hand sanitizer (with at least 60% alcohol) at the entrance and at other areas throughout the premises as needed. Promote frequent use of handwashing and hand sanitizer for workers and Guests.
 5. Increase disinfection during peak times or high Guest density times, and disinfect all shared objects (e.g., payment terminals, tables, countertops/bars, receipt trays, condiment holders) between use.
 6. Follow the Core Signage, Screening and Sanitation Requirements as defined in this Executive Order.
- f. **Gaming.** This Executive Order does not order the closure of gaming establishments. However, nothing in this Executive Order shall be construed to authorize any gaming activity prohibited by Chapter 14 of the North Carolina General Statutes.

3.9. **Museums and Aquariums.**

- a. **Face Coverings.** Unless an exception applies:
- Workers in museums and aquariums must wear Face Coverings when they are inside.
 - Workers in museums and aquariums must also wear Face Coverings if they are outside and within six (6) feet of another person.
 - In addition, Guests must wear Face Coverings.
- b. Museums and aquariums may open. All operators of open museums or aquariums must meet the following requirements:

1. Limit the number of Guests in the museum or aquarium to fifty percent (50%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than twelve (12) Guests for every one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests) and ensure Guests are able to social distance and remain six (6) feet away from groups other than those in their households.
2. Limit Guests in each room within a museum or aquarium such that they do not exceed twenty-five (25) individuals. Restaurants located within museums and aquariums are subject to the Emergency Maximum Occupancy and other requirements on restaurants in Section 3 of this Executive Order.
3. Post signage reminding Guests and workers about social distancing (staying at least six (6) feet away from others) and requesting that people who have been symptomatic with fever and/or cough not enter.
4. Conduct daily symptom screening of workers, using a standard interview questionnaire of symptoms, before workers enter the workplace.
5. Immediately isolate and remove sick workers.
6. Perform frequent and routine environmental cleaning and disinfection of high-touch areas with an EPA-approved disinfectant for SARS-CoV-2 (the virus that causes COVID-19).

3.10. **Parks.**

- a. **Face Coverings.** Unless an exception applies, Face Coverings are required for all people in parks if they are either within six (6) feet of another person or are indoors.
- b. **Capacity Limits.** Parks must restrict each group of Guests to be no more than the Mass Gathering limit stated below in Subsection 5.1 of this Executive Order. Each group of people within an outdoor park, trail, or beach must be limited so that the group, counted on its own, does not exceed the Mass Gathering limit.
- c. **Requirements for Park Operators.** All operators of open public or private parks must meet the following requirements:
 1. Post signage reminding Guests and workers about social distancing (staying at least six (6) feet away from others) and requesting that people who have been symptomatic with fever and/or cough not enter.
 2. Conduct daily symptom screening of workers, using a standard interview questionnaire of symptoms, before workers enter the workplace.
 3. Immediately isolate and remove sick workers.
 4. Perform frequent and routine environmental cleaning and disinfection of high-touch areas with an EPA-approved disinfectant for SARS-CoV-2 (the virus that causes COVID-19).

3.11. **Personal Care, Grooming, and Tattoo Businesses.**

- a. **Face Coverings.** Unless an exception applies:
 - Personal Care, Grooming, and Tattoo Businesses must have workers wear Face Coverings at all times.
 - In addition, the business must have all Guests wear Face Coverings when they are inside the establishment, unless they are receiving a facial treatment, shave, or other services on a part of the head which the Face Covering covers or by which the Face Covering is secured.

- b. Personal Care, Grooming, and Tattoo Businesses May Open. During the effective period of this Executive Order, Personal Care, Grooming, and Tattoo Businesses may operate, but must be in compliance with this Section.
- c. Requirements. While this Executive Order is in effect, all open Personal Care, Grooming, and Tattoo Businesses must do all of the following:
 - 1. Limit Guests inside the store to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a Personal Care, Grooming, and Tattoo Business is the lowest number produced by applying the following two tests:
 - 1. Limit the number of Guests in the store to fifty percent (50%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than twelve (12) Guests for every one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests).
 - 2. Limit the number of Guests in the store so that Guests can stay six (6) feet apart.
 - 2. Arrange seating so that groups of Guests are separated from one another by six (6) feet.
 - 3. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order, except for the requirement to have signage remind people about staying six (6) feet apart.
 - 4. Ensure that all equipment that comes into direct personal contact with Guests and all furniture in service areas (such as chairs, capes, and the shampooing area in a barber shop or salon) is completely cleaned and disinfected between each Guest.
 - 5. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests, such as at cash registers and waiting areas. (E.O. 169, s. 3.11, incorporating E.O. 163, s. 3.2(c) and 6.4; E.O. 180, s. I(E).)

3.12. **Pools.**

- a. Indoor and Outdoor Pools May Open. During the effective period of this Executive Order, indoor or outdoor pool facilities (whether stand-alone or part of other facilities) may operate, but must be in compliance with this Subsection.
- b. Requirements. While this Executive Order is in effect, all open pool facilities must do all of the following:
 - 1. Limit the number of Guests in the pool to no more than 50% of maximum occupancy as determined by fire code (or, when fire code number is not known, thirty-three (33) Guests per one thousand (1000) square feet in deck areas, wading pools and splash pads), and a maximum occupancy in the water of ten (10) Guests per one thousand (1000) square feet. This Guest capacity is the Emergency Maximum Occupancy for the pool facility.
 - 2. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order.
- c. Establishments that are not Amusement Parks and offer waterslides over fifteen (15) feet in height must abide, for each waterslide, by the occupancy restrictions for pools stated in this Section.
- d. This Subsection applies only to shared pools in commercial settings or at residential complexes. It does not apply to family pools at people's homes.

3.13. **Restaurants.**

- a. **Face Coverings.** Unless an exception applies:
- Restaurants must have all workers wear Face Coverings.
 - In addition, these establishments must have all Guests wear Face Coverings (including at their table) when they are not actively drinking or eating.
- b. **Restaurants May Open for On-Premises Service.** During the effective period of this Executive Order, restaurants may allow on-premises consumption of food and beverages. Restaurants must meet the sanitation requirements of this Section even if they are open only for take-out or delivery service.
- c. **Requirements.** While this Executive Order is in effect, all open restaurants must do all of the following:
1. Limit Guests in indoor and outdoor seating areas to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a restaurant is the lowest number produced by applying the following three tests:
 - a. Limit the number of Guests in the restaurant to fifty percent (50%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than twelve (12) Guests for every one thousand (1000) square feet of the location's total square footage, including the parts of the location that are not accessible to Guests).
 - b. Limit the number of Guests in the space so that groups can stay six (6) feet apart.
 - c. Arrange the restaurant so that Guests sitting at a table are not within six (6) feet of any Guests sitting at another table. Moreover, each group of Guests sitting at a counter should be separated from other groups by six (6) feet.
 2. Limit Guests at tables so that no more than ten (10) people shall be seated together at the same table. However, more than ten (10) people may sit together at the same table if they are members of the same household.
 3. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order, along with the following additional requirements:
 4. Increase disinfection during peak times or high Guest density times, and disinfect all shared objects (e.g., dining tables, booths, counters, payment terminals, tables, countertops/bars, receipt trays, condiment holders, and reusable menus) between each use.
 5. Promote frequent use of hand-washing and hand sanitizer for wait staff and food service staff throughout the shift and upon reporting to work. Hand washing must at least meet the requirements specified in the North Carolina Food Code Manual.
 6. Mark six (6) feet of spacing in lines at high-traffic areas for Guests, such as a cash register or place where Guests wait to be seated at their table.
- d. **Clarifications.** People sitting at a table need not be members of the same household and do not need to stay six (6) feet apart. Moreover, this Executive Order does not require servers and wait staff to stay six (6) feet away from Guests.
- e. **Miscellaneous.** A restaurant that operates consistent with the terms of this Subsection of this Executive Order shall continue to be considered an "Essential Business" for the

purpose of N.C. Sess. L. 2020-03, Sec. 4.14(a) to the extent that COVID-19-related claims are made against the restaurant.

- f. Breweries, wineries, and distilleries are subject to the same restrictions as Restaurants under this Executive Order.
- g. Any meeting or function held in a private room in a Restaurant is covered by the capacity and other restrictions stated above in Subsection 3.8 of this Executive Order (“Movie Theaters, Meeting Spaces, and Entertainment Facilities”).

3.14. **Retail Businesses.**

- a. **Face Coverings.** Unless an exception applies:
 - Retail Businesses must have all workers wear Face Coverings.
 - In addition, Retail Businesses must have all Guests wear Face Coverings when they are inside the establishment.
- b. **Requirements for Retail Businesses.** While this Executive Order is in effect, all open Retail Businesses must do all of the following.
 - 1. Limit Guests inside the store to Emergency Maximum Occupancy. Under this Executive Order, the Emergency Maximum Occupancy for a Retail Business is the lowest number produced by applying the following two tests:
 - a. Limit the number of Guests in the store to fifty percent (50%) of stated fire capacity (or, for spaces without a stated fire capacity, no more than twelve (12) Guests for every one thousand (1000) square feet of the location’s total square footage, including the parts of the location that are not accessible to Guests).
 - b. Limit the number of Guests in the store so that everyone can stay six (6) feet apart.
 - 2. Mark six (6) feet of spacing in lines at point of sale and in other high-traffic areas for Guests, such as at deli counters and near high-demand products.
 - 3. Follow the Core Signage, Screening, and Sanitation Requirements as defined in this Executive Order.
 - 4. Any Retail Business location with more than 15,000 square feet of interior space must, at each entrance open to the public, have a worker who is responsible for the Face Covering and Emergency Maximum Occupancy requirements established by Executive Orders. These workers may have other duties, but they must be close enough to the entrance that they can identify customers who enter without wearing Face Coverings and ensure that Guests wait outside if needed so that the Retail Business does not exceed Emergency Maximum Occupancy requirements.

3.15. **Transportation.**

All workers and riders on public or private transportation regulated by the State of North Carolina, as well as all people in North Carolina airports, bus and train stations or stops, must wear Face Coverings at all times, unless an exception applies. This provision does not apply to people traveling alone with household members or friends in their personal vehicles, but does apply to ride-shares, cabs, vans, and shuttles, even if the vehicles are privately owned. Guests may be removed from or denied entry to public transportation if they refuse to wear a Face Covering. (E.O. 169, s. 3.15, incorporating E.O. 163, s. 3.2(f); E.O. 180, s. I(E).)

3.16. Workplaces in Agriculture, Construction, and Manufacturing.

Social distancing is inherently difficult where multiple workers are together in manufacturing settings, at construction sites, and in migrant farm, other farm, and agricultural settings. Therefore, in businesses or operations within North American Industry Classification System (“NAICS”) sectors 311 to 339 (manufacturing), 236 to 238 (construction), and 111, 112, 1151, and 1152 (agriculture), all workers not requiring a respiratory protection program must wear Face Coverings when they are either within six (6) feet of another person or indoors. Notwithstanding the above, workers may remove their Face Covering if an exception applies, if they become overheated, or if they eat and drink while working.

3.17. Closure No Later than 10:00 PM.

- a. Types of businesses and organizations within the categories listed above in this Section 3 must close their premises to the public no later than 10:00 PM and may not reopen their premises to the public before 5:00 AM (the “Night-Time Public Closure Period”) on the following morning, except for the facilities within Subsection 3.3 (child care facilities), Subsection 3.4 (children’s overnight camps), Subsection 3.6 (government operations), Subsection 3.7 (health care settings), Subsection 3.15 (transportation), and Subsection 3.16 (workplaces in agriculture, construction, and manufacturing). If an establishment is not within the scope of one of the categories listed above in this Section 3, it may remain open to the public during the Night-Time Public Closure Period.
- b. Businesses and organizations may continue to keep their premises open for employees and other workers during the Night Time Public Closure Period, and may otherwise conduct their business and operations, as long as no Guests are admitted onto the premises.
- c. This Subsection 3.17 does not apply to Retail Businesses that sell groceries, medication, fuel, or health care supplies.
- d. All restaurants, breweries, distilleries, and wineries must stop taking new orders at a time that allows them to close their on-premises dining rooms at 10:00 PM and no longer have Guests eating on-premises. During the Night-Time Public Closure Period, these establishments may do business only to the extent that consumption of food and beverages occurs off-premises through such means as in-house delivery, third-party delivery, drive-through, curbside pick-up, and carry-out. These restrictions also apply to cafeterias or other dining areas in businesses that are open.
- e. This Subsection does not authorize any establishment to serve alcoholic beverages beyond the times listed in Subsection 4.1 of this Executive Order or on days and times prohibited under generally applicable law.
- f. This Subsection does not prohibit camping during the Night-Time Public Closure Period. This Subsection also does not prohibit organizations from providing services to people experiencing homelessness, or people whose residences are unsafe or become unsafe.

Section 4. Overnight Restrictions.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows.

4.1. Restrictions on Late Night Service of Alcoholic Beverages.

- a. Any businesses or organizations that sell or serve alcoholic beverages for onsite consumption shall cease the sale and service of alcoholic beverages for onsite consumption between 9:00 pm and 7:00 am. The agents or employees of establishments that are permitted to sell or serve alcoholic beverages for onsite consumption shall likewise not sell or serve alcoholic beverages for onsite consumption between 9:00 pm and 7:00 am.

- b. Any businesses or organizations that sell or serve alcoholic beverages for onsite consumption shall cease the sale and service of alcoholic beverages for onsite consumption between 9:00 pm and 7:00 am. The agents or employees of establishments that are permitted to sell or serve alcoholic beverages for onsite consumption shall likewise not sell or serve alcoholic beverages for onsite consumption between 9:00 pm and 7:00 am.
- c. Businesses or organizations may not provide off-site table service, catering service or bartending service for the sale and consumption of alcoholic beverages between 9:00 pm and 7:00 am for the purposes of consumption at the premises where the alcoholic beverage is being served.
- d. Nothing in this Executive Order shall be interpreted to change the laws regarding the hours of sales for alcoholic beverages for off-premises consumption or authorize sale, service, possession, transportation, or consumption of alcoholic beverages at times or places where not previously allowed before this Executive Order was issued. This Subsection 4.1 also does not provide authority to reopen any facilities (or areas of facilities) that are closed by another provision of this Executive Order.

4.2. **Events Must End by 10:00 PM.**

- a. Events or convenings outside the home must end or pause no later than 10:00 PM. At or before that time, Guests must leave and travel home or to the place where they will stay for the night.
- b. Live entertainment performances, entertainment events such as movie screenings, and youth and amateur sporting events must cease no later than 10:00 or be paused at that time. Professional and collegiate sporting events may continue past 10:00.

4.3. **Travel Restrictions; Stay At Home Overnight.**

In light of the unprecedented and urgent threat to the lives of North Carolinians that is evidenced by the current spike in COVID-19 infection rates, the undersigned imposes the following curfew and restriction upon movement of persons within the emergency area, which is the entire State of North Carolina.

- a. Between 10:00 PM and 5:00 AM, all individuals in North Carolina must stay at home or at the place they will stay for the night, except for:
 - 1. Travel to or from a place of work when a worker's presence is required by the worker's employer;
 - 2. Travel for work purposes;
 - 3. Performing work at the workplace or other location directed by the employer when the worker's presence is required by the worker's employer;
 - 4. Travel to obtain groceries, take-out food, medical care, fuel, health care supplies, or social services;
 - 5. Travel from a business that closed at or after 10:00 PM;
 - 6. Travel to a business that will open at or after 5:00 AM;
 - 7. Travel to take care of a family member, friend, or pet in another household;
 - 8. Travel necessary for purposes of personal safety;
 - 9. Travel into or out of the State;
 - 10. Travel required by law enforcement or court order; and
 - 11. Using or providing shared transportation (including without limitation taxicabs, ride shares, buses, trains, airplanes, and travel to airports, train stations, or bus stations).
- b. Law enforcement personnel are directed to enforce this Subsection 4.3 of the Executive Order against individuals only in cases of willful or repeated violations.
- c. In addition to the exceptions stated above, this Subsection 4.3 does not apply to:

- Travel to, or attending, a religious service or other activity exempted under Subsection 1.2 of this Executive Order;
 - Collegiate and professional sporting events;
 - The media;
 - Law enforcement, fire, paramedics, and all other first responders and emergency responders; and
 - The United States government, State government, and local governments.
- d. Individuals experiencing homelessness are exempt from this Executive Order, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable. People in unsafe living situations, including victims of domestic violence, are exempt from the travel restrictions of this Order and are urged to leave home and find a safe place to stay.

Section 5. Mass Gatherings.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

- 5.1. **Prohibition.** Mass Gatherings are prohibited. “**Mass Gathering**” means an event or convening which brings together more than ten (10) people indoors or more than fifty (50) people outdoors at the same time in a single confined indoor or outdoor space. This includes parades, fairs, or festivals. In publicly accessible indoor facilities, the Mass Gathering limit applies per room of the facility. When more than ten (10) people reside in the same household, residing together does not form a Mass Gathering.

At a park, beach, or trail, the outdoor Mass Gathering limit of fifty (50) people applies to each group of people that may gather together.

- 5.2. **Exceptions from Prohibition on Mass Gatherings.** Notwithstanding the Mass Gathering limit above:
- a. The prohibition on Mass Gatherings does not apply to any of the restricted businesses and operations identified in Section 3 of this Executive Order, except as specifically stated above, because in those situations, transmission of COVID-19 will be controlled through the measures specifically tailored for each situation that are listed in those Sections. The prohibition on Mass Gatherings and the capacity limits in Section 3 generally do not apply to educational institutions or government operations. The capacity limits in Sections 3.2 and 6, of this Executive Order, however, apply to educational institutions and government operations.
 - b. The prohibition on Mass Gatherings does not include gatherings for health and safety, to look for and obtain goods and services, for work, or for receiving governmental services. A Mass Gathering does not include normal operations at airports, bus and train stations or stops, medical facilities, libraries, shopping malls, and shopping centers. However, in those settings, people must follow the Recommendations to Promote Social Distancing and Reduce Transmission as much as possible, and they should circulate within the space so that there is minimal contact between people.
- 5.3. **Drive-Ins.** Events are not prohibited Mass Gatherings if the participants all stay within their vehicle, such as at a drive-in movie theater.

Section 6. Exception for Events at Very Large Outdoor Facilities.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

- 6.1. **Scope.** This Section applies only to venues (“**Very Large Outdoor Facilities**”) which meet all of the following criteria:

- a. Guests are seated with assigned seats; and
- b. The event occurs outdoors and the majority of Guests are seated outdoors; and
- c. There are at least two separate entrances and at least two exits to the facility; and
- d. The total seating capacity of the facility, before reductions under this Executive Order, is ten thousand (10,000) or more.

These establishments may exceed the capacity restrictions stated in Section 3 of this Executive Order and the Mass Gathering limit stated in Section 5 of this Executive Order if they comply with all of the following restrictions.

6.2. **Capacity Restrictions at Very Large Outdoor Facilities.** The establishment must take all the following steps:

- a. **Overall.** The operator must limit the total number of Guests in the facility to no more than seven percent (7%) of the facility's total seating capacity (measured before any reductions under this Executive Order).
- b. **Limiting Crowding in Concourses.** The facility operator must also have staff direct or monitor the flow of Guests through common spaces to maintain social distancing as Guests enter the arena, leave the arena, or visit concession stands. The operator must also establish a guest flow plan that limits people massing together throughout the facility and when they are entering or exiting the facility.
- c. Workers, entertainers, athletes, and any other support staff do not count toward these capacity limits. The capacity restrictions stated in this Section apply to sporting events held by educational or government institutions.

6.3. **Socially Distanced Seating Required.** The establishment must use assigned seats as follows:

- All events must be ticketed. No tickets shall be sold for "standing room only" or "general admission."
- The facility operator must, through the use of assigned seating, ensure that each group of Guests attending the event is actually physically separated by six (6) feet from each Guest in each other group.
- This includes not only separating each Guest group horizontally within a row, but also separating Guest groups vertically between rows so that no person has someone from another group within six (6) feet in front or behind them.
- The facility operator must have staff periodically monitor crowds to ensure that Guests do not take seats other than their assigned seats.

In this Subsection, a "group" of spectators means a set of friends or family members who bought tickets together and came into the event venue together. No group of spectators under this Section shall exceed ten (10) people.

6.4. **Face Coverings and Other Requirements Stated Above.** The Very Large Outdoor Facility must, in addition to the requirements stated in this Section, follow all applicable requirements stated in Subsection 3.2(e)-(h) of this Executive Order.

6.5. **Alcohol Sales.** Very Large Outdoor Facilities may serve alcoholic beverages for on-site consumption in outdoor or indoor seating areas on its premises, subject to applicable local and state regulations. If a Very Large Outdoor Facility has a distinct bar within its premises, consumption of alcohol must not occur within that bar area.

6.6. Very Large Outdoor Facility operators are encouraged to take their best efforts to avoid attendees gathering in areas around the facility before or after the event.

Section 7. Miscellaneous Provisions.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

- 7.1. **Statewide Standing Order for COVID-19 Testing.** In order to further protect the public health by providing greater access to COVID-19 testing, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue any statewide standing order needed in her medical judgment that would allow individuals who meet NCDHHS criteria for testing to access and undergo testing for COVID-19, subject to the terms of the standing order. This standing order may continue for the duration of the State of Emergency.
- 7.2. **School and Health Officials to Continue Efforts.** NCDHHS, the North Carolina Department of Public Instruction, and the North Carolina State Board of Education are directed to continue to work together during this State of Emergency to maintain and implement measures to provide for the health, nutrition, safety, educational needs, and well-being of children being taught by remote learning.
- 7.3. **Effect on Local Emergency Management Orders.**
- a. **Most of the Restrictions in This Executive Order Are Minimum Requirements, And Local Governments Can Impose Greater Restrictions.** The undersigned recognizes that the impact of COVID-19 has been and will likely continue to be different in different parts of North Carolina. Over the course of the COVID-19 emergency in North Carolina, COVID-19 outbreaks have occurred, at different times, in urban and rural areas; in coastal areas, the piedmont, and the mountains; and in a variety of employment and living settings. As such, the undersigned acknowledges that counties and cities may deem it necessary to adopt ordinances and issue state of emergency declarations which impose restrictions or prohibitions to the extent authorized under North Carolina law, such as on the activity of people and businesses, to a greater degree than in this Executive Order. To that end, nothing herein, except where specifically stated below in Subsections 7.3(b) and 7.3(c), is intended to limit or prohibit counties and cities in North Carolina from enacting ordinances and issuing state of emergency declarations which impose greater restrictions or prohibitions to the extent authorized under North Carolina law.
 - b. **Local Restrictions Cannot Restrict State or Federal Government Operations.** Notwithstanding Subsection 7.3(a) above, no county or city ordinance or declaration shall have the effect of restricting or prohibiting governmental operations of the State or the United States.
 - c. **Local Restrictions Cannot Set Different Retail Requirements.** Notwithstanding Subsection 7.3(a) above, in an effort to create uniformity across the state for Retail Businesses that may continue to operate, the undersigned amends all local prohibitions and restrictions imposed under any local state of emergency declarations to remove any language that sets a different maximum occupancy standard for Retail Businesses or otherwise directly conflicts with Section 6.2(a)(i) of Executive Order No. 163, which is incorporated into this Executive Order by Subsection 3.14 above. The undersigned also hereby prohibits during the pendency of this Executive Order the adoption of any prohibitions and restrictions under any local state of emergency declarations that set a different maximum occupancy standard for Retail Businesses or otherwise directly conflict with Section 6.2(a)(i) of Executive Order No. 163.
 - d. **Local Restrictions Cannot Prevent COVID-19 Testing.** To ensure that COVID-19 testing is available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable testing, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 testing or would prevent or restrict businesses or operations from advertising COVID-19 testing services that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions, and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 testing sites that are operated in accordance with state and federal

law and in cooperation with the North Carolina Department of Health and Human Services or a local public health department.

- e. **Local Restrictions Cannot Prevent COVID-19 Vaccine Administration.** To ensure that COVID-19 vaccines are available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable service, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 vaccines or would prevent or restrict businesses or operations from advertising COVID-19 vaccines that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 testing sites that are operated in accordance with state and federal law and in cooperation with the North Carolina Department of Health and Human Service or a local public health department.

- 7.4. **Previous Executive Orders.** This Executive Order amends, restates, and replaces Executive Order Nos. 141, 153, 162, 163, 169, 170, 176, and 180 in full, except where Subsection 3.4(b) of this Executive Order incorporates certain requirements of Executive Order No. 141. Those incorporated provisions of Executive Order No. 141 are extended for the duration of this Executive Order, including any extensions or amendments of this Executive Order.

Section 8. Extension of Price Gouging Period.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

Pursuant to N.C. Gen. Stat. § 166A-19.23, the undersigned extends the prohibition against excessive pricing, as provided in N.C. Gen. Stat. §§ 75-37 and 75-38, from the issuance of Executive Order No. 116 through 5:00 pm on January 08, 2021.

The undersigned further hereby encourages the North Carolina Attorney General to use all resources available to monitor reports of abusive trade practices towards consumers and make readily available opportunities to report to the public any price gouging and unfair or deceptive trade practices under Chapter 75 of the North Carolina General Statutes.

Section 9. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

Section 10. Savings Clause.

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 11. Distribution.

I hereby order that this Executive Order 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 such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 12. Enforcement.

- 12.1. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers.
- 12.2. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d), and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A. Local governments are specifically authorized and encouraged to adopt ordinances that provide law enforcement officials with flexibility to use civil, rather than criminal, penalties to enforce violations of this Executive Order.
- 12.3. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

Section 13. Effective Date.

This Executive Order is effective December 11, 2020, at 5:00 pm. This Executive Order shall remain in effect through 5:00 pm on January 08, 2021 unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the 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 8th day of December in the year of our Lord two thousand and twenty.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

December 15, 2020

EXECUTIVE ORDER NO. 182

**STATE TYPE I DISASTER DECLARATION FOR INDIVIDUAL ASSISTANCE FOR
ALEXANDER COUNTY**

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, authorizes the issuance of a disaster declaration for an emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7) that has been impacted by a Type I, Type II or Type III disaster as defined in N.C. Gen. Stat. § 166A-19.21(b); and

WHEREAS, on November 12, 2020 the State of North Carolina experienced severe weather in the form of heavy rainfall and flooding from the remnants of Tropical Storm Eta; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.20, the undersigned declared a state of emergency for the entire State of North Carolina on November 13, 2020; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.22, Alexander County declared a local state of emergency on November 12, 2020; and

WHEREAS, due to the impacts from the severe weather, local, state, and federal emergency management officials conducted a joint preliminary damage assessment on November 19, 2020 and November 23, 2020; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Alexander County declared a local state of emergency pursuant to N.C. Gen. Stat. § 166A-19.22; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, the undersigned has determined that a Type I disaster, as defined in N.C. Gen. Stat. §166A-19.21(b)(1), exists in the State of North Carolina, specifically Alexander County and the contiguous counties of Caldwell, Catawba, Iredell and Wilkes; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.41, if a disaster is declared, the undersigned may make state funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of residents in the emergency area.

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.

For purposes of this Executive Order only, the emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7), is Alexander County and the contiguous counties of Caldwell, Catawba, Iredell and Wilkes (“the Emergency Area”).

Section 2.

Pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the Emergency Area.

Section 3.

I authorize state emergency assistance funds in the form of grants to individuals and families located within the emergency area that meet the terms and conditions under N.C. Gen. Stat. § 166A-19.41(b)(1).

Section 4.

I hereby order that this declaration 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 Secretary of the North Carolina Department of Public Safety, the North Carolina Secretary of State, and the clerks of superior court in the county to which it applies; and (c) distributed to others as necessary to ensure proper implementation of this declaration.

Section 5.

Pursuant to N.C. Gen. Stat. § 166A-19.21(c)(1), this Type I disaster declaration shall expire sixty (60) days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of thirty (30) days each, not to exceed a total of 120 days from the date of first issuance.

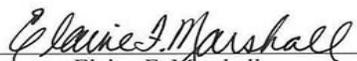
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 15th day of December in the year of our Lord two thousand and twenty.



Roy Cooper
Governor



ATTEST:



Elaine F. Marshall
Secretary of State

NORTH CAROLINA RATE BUREAU

PUBLIC NOTICE

Notice is hereby given pursuant to North Carolina General Statute 58-36-120 that, on December 14, 2020, the North Carolina Rate Bureau filed for an increase in rates as to Dwelling insurance policies under its jurisdiction. Public notice of the Filing is being given in two newspapers with statewide distribution, and information is being posted on the websites of the North Carolina Rate Bureau and the North Carolina Department of Insurance. The Commissioner of Insurance may or may not schedule and conduct a hearing with respect to the Filing.

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 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Child Care Commission intends to amend the rules cited as 10A NCAC 09 .2828 and .3013.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://ncchildcare.ncdhhs.gov/Whats-New>

Proposed Effective Date: July 1, 2021

Public Hearing:

Date: February 8, 2021

Time: 12:00 pm

Location: The meeting will be held by WebEx.

The public may participate by clicking on the link below:

<https://ncgov.webex.com/ncgov/onstage/g.php?MTID=e383123ae0a5535de9b0babffe12096b3>

Reason for Proposed Action: The NC Child Care Commission propose to amend rules 10A NCAC 09 .2828 and .3013 to increase the education and training requirements for Pre-K teacher assistants. The agency is also proposing to require that all Family Child Care Homes conduct a self-assessment and implement written operation policies and procedures.

Comments may be submitted to: Dedra Alston, 2201 Mail Service Center, Raleigh, NC 27699-2200; phone (919) 814-6307; email Dedra.Alston@dhhs.nc.gov

Comment period ends: March 16, 2021

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 09 - CHILD CARE RULES

SECTION .2800 - TWO THROUGH FIVE STAR RATED LICENSES

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

(a) This Rule shall apply to evaluating the program standards for a rated license for family child care homes.

(b) To achieve two through seven points for program standards, the operator shall meet the criteria listed in the following chart:

FCCH Program Standards (.2828) Point Level	Criteria
2 points	Operator provides documentation of self-study and self-assessment using the Family Child Care Rating Scale over a 3-month time period. Documentation such as an ERS book with score sheets, self-assessments and program adjustments shall be reviewed by the Division as part of the rated license assessment.
3 points	Provide documentation of the 3-month self-study AND have Have a score of 4.0 or higher on the Family Child Care Rating Scale
4 points	Provide documentation of the 3-month self-study AND have Have a score of 4.25 or higher on the Family Child Care Rating Scale
5 points	Provide documentation of the 3-month self-study AND have Have a score of 4.5 or higher on the Family Child Care Rating Scale

FCCH Program Standards (.2828) Point Level	Criteria
6 points	<u>Provide documentation of the 3-month self-study AND have</u> Have a score of 4.75 or higher on the Family Child Care Rating Scale AND of the five preschoolers allowed to be enrolled, no more than four children shall be under one year of age
7 points	<u>Provide documentation of the 3-month self-study AND have</u> Have a score of 5.0 or higher on the Family Child Care Rating Scale AND of the five preschoolers allowed to be enrolled, no more than three children shall be under one year of age

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

SECTION .3000 NC PRE-KINDERGARTEN SERVICES

10A NCAC 09 .3013 NC PRE-K TEACHER ASSISTANT EDUCATION AND CREDENTIALS

(a) All teacher assistants shall have a high school diploma or its equivalent and shall either:

- (1) hold a Child Development Associate (CDA) credential; or
- (2) hold or be working toward an Associate Degree or higher in birth-through-kindergarten, child development, early childhood education, or an early childhood education related field. Teacher assistants working toward the Associate Degree shall make progress by completing a minimum of six documented semester hours per year.
- ~~(1) have a high school diploma or GED and shall hold, or be working toward, an Associate Degree in birth-through-kindergarten, child development, early childhood education, or an early childhood education related field or a Child Development Associate (CDA) credential. Teacher assistants working toward the minimum of an Associate Degree or CDA shall make progress by completing a minimum of six documented semester hours per year; or~~
- ~~(2) meet the employment requirements outlined by the Every Student Succeeds Act (ESSA), Pub.L. 114-95, and have one of the following:~~
 - ~~(a) six documented semester hours of coursework in early childhood education, or~~
 - ~~(b) two years of work experience in an early childhood setting.~~

(b) All teacher assistants shall complete at least 15 hours of annual in-service professional development. A combination of college coursework, Continuing Education Units (CEUs) or clock hours may be used to complete the requirements of this Rule.

(c) The site-level administrator shall maintain document the progress of any teacher assistants who are working toward the required education. This documentation must be maintained in the individual's staff record available for review by the Division. Division of the progress in accordance with this Rule.

Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a).

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Department of Insurance intends to readopt without substantive changes the rules cited as 11 NCAC 04 .0115-.0124, .0312-.0320, .0415-.0417, .0420, .0422, .0423, .0426, .0427, .0429-.0433, and .0501-.0509.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for re adoption 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.ncdoi.com/LS/Rules.aspx>

Proposed Effective Date: May 1, 2021

Public Hearing:

Date: February 16, 2021

Time: 11:00 a.m.

Location: NCDOI, Albemarle Building, 325 North Street, Raleigh, NC 1st Floor Hearing Room, Room 131

Reason for Proposed Action: *These rules are being proposed for re adoption in accordance with G.S. 150B-1.3A(d)(2).*

Comments may be submitted to: Loretta Peace-Bunch, 325 North Salisbury Street, Raleigh, NC 27603; phone (919) 807-6004; email Loretta.Peace-Bunch@ncdoi.gov

Comment period ends: March 16, 2021

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 04 - CONSUMER SERVICES DIVISION

SECTION .0100 - GENERAL PROVISIONS

11 NCAC 04 .0115 DIVISION PROCEDURES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0116 INQUIRIES AND INFORMATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0117 STATEMENT OF ACTION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0118 INSURANCE CARRIERS AS LENDERS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0119 INSURER DEFINED (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0120 POLICY OR SERVICE FEES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0121 PREMIUM PAYMENT RECEIPTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0122 POWER-OF-ATTORNEY (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0123 USE OF SPECIFIC COMPANY NAME IN RESPONSES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0124 INSURANCE COMPANY CONTACT PERSONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0300 - LIFE: ACCIDENT AND HEALTH

11 NCAC 04 .0312 INFORMATION USED IN CLAIM SETTLEMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0313 PROVISIONS OF CONTRACTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0314 PREMIUM NOTICES: PAYMENTS AND REFUNDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0315 ISSUANCE OF CONTRACTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0316 CONTESTABILITY CLAUSE AND RESCISSION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0317 SEX DISCRIMINATION: LIFE: ACCIDENT AND HEALTH INSURANCE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0318 LIFE INSURANCE SALES: FINANCING FIRST YEAR PREMIUM (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0319 CLAIMS PRACTICES: LIFE: ACCIDENT AND HEALTH INSURANCE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0320 STUDENT LOANS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0400 - PROPERTY AND LIABILITY

11 NCAC 04 .0415 SAFE DRIVER INCENTIVE PLAN (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0416 BILLING PROCEDURES FOR AUTOMOBILE INSURANCE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0417 DRIVE-IN CLAIM SERVICE FACILITIES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0420 WRITTEN CONFIRMATION OF ORAL AGREEMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0422 CANCELLATION OF INSURANCE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0423 ETHICAL STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0426 LIKE KIND AND QUALITY (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0427 DISCLOSURE REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0429 COMMINGLING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0430 PROOF OF MAILING; AUTOMOBILE INSURANCE (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0431 DEFINITION OF CLAIMANT (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0432 REFUND OF EXCESS PREMIUM ON SCHEDULED ITEMS (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0433 REFUND OF AUTO INSURANCE PREMIUM ON NEW BUSINESS (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0500 - LIFE INSURANCE ILLUSTRATIONS

11 NCAC 04 .0501 SCOPE AND DEFINITIONS (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0502 ASSUMED EXPENSES AND CURRENT SCALE (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0503 ILLUSTRATED POLICIES (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0504 GENERAL RULES (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0505 STANDARDS FOR BASIC ILLUSTRATIONS (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0506 STANDARDS FOR SUPPLEMENTAL ILLUSTRATIONS (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0507 DELIVERY OF ILLUSTRATION AND RECORD RETENTION (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0508 ANNUAL REPORTS AND NOTICES TO POLICY OWNERS (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 04 .0509 ANNUAL CERTIFICATIONS (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Department of Insurance intends to readopt without substantive changes the rules cited as 11 NCAC 05B .0301; and 05D .0113-.0115.

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.ncdoi.com/LS/Rules.aspx Proposed Effective Date: May 1, 2021

Public Hearing: Date: February 16, 2021 Time: 10:00 a.m. Location: NCDI Albermarle Building, 325 North Street, Raleigh, NC, 27603 1st Floor Hearing Room, Room 131

Reason for Proposed Action: The rules are being proposed for readoption in accordance with G.S. 150B-21.3A(d)(2).

Comments may be submitted to: Loretta Peace-Bunch, 325 North Salisbury Street, Raleigh, NC 27603; phone (919) 807-6004; email Loretta.Peace-Bunch@ncdoi.gov

Comment period ends: March 16, 2021

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 (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 05 - OFFICE OF STATE FIRE MARSHAL

SUBCHAPTER 05B - N.C. STATE FIRE COMMISSION

SECTION .0300 - CERTIFICATION OF FIRE SERVICE PERSONNEL

11 NCAC 05B .0301 MINIMUM PROFESSIONAL QUALIFICATIONS (READOPTIION WITHOUT SUBSTANTIVE CHANGES)

SUBCHAPTER 05D - PYROTECHNICS

11 NCAC 05D .0113 REPORT OF THEFT OR LOSS OF PYROTECHNICS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 05D .0114 REPORT OF INJURY OR PROPERTY DAMAGE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

11 NCAC 05D .0115 INSPECTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02L .0202.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://deq.nc.gov/news/events/public-notice-hearings>

Proposed Effective Date: July 1, 2021

Public Hearing:

Date: February 2, 2021

Time: 6:00 pm

Location: In the abundance of caution, and to address protective measures to help prevent the spread of COVID-19, the NC Division of Water Resources is holding an online public hearing that can be joined starting at 5:45 pm via WebEx link: <https://ncdenrits.webex.com/ncdenrits/onstage/g.php?MTID=e5c544ae3124c6ca32f29b6ac45afb8ac>, WebEx password: jPeFQgQ3n85 WebEx phone number: 1-415-655-0003 WebEx access code: 178 659 9930

To register for the hearing and provide your preference regarding speaking at the hearing, please visit: https://forms.office.com/Pages/ResponsePage.aspx?id=3IF2etC5mkSFw-zCbNftGRcM2xmuszROiks3JDQp2_RUNIJKWjlIRjlWWkhIVTRLMDFGM1gzSDRYMy4u

Or scan the following QR code with your phone:



Registration must be completed by 12:00 pm on February 2, 2021. If you have any problems registering online, please call 919-707-9011 by the registration deadline of 12:00 pm on February 2, 2021.

The Division of Water Resources highly recommends testing your computer's WebEx capabilities prior to the hearing at

<https://www.webex.com/test-meeting.html>. For instructions about digital ways to join the public hearing, please refer to the WebEx Help Center online at <https://help.webex.com/en-us/>.

To comment during the hearing after your name is called as a registered speaker and/or after the hearing officer asks if any people wish to comment following the registered speakers:

- If you join the hearing by phone, press *3 to "raise your hand," speak once called upon to do so, and press *3 again to "lower your hand."

- If you join the hearing online, press the hand icon to "raise your hand," speak once called upon to do so, and press the hand icon again to "lower your hand."

- The Hearing Officer may limit the length of time that you may speak, so that all those who wish to speak may do so.

Reason for Proposed Action: Groundwater Quality Standards for the protection of groundwaters of the state are established by 15A NCAC 02L .0202. They are the maximum allowable concentrations resulting from any discharge of contaminants to the land or waters of the state, which may be tolerated without creating a threat to human health or which would otherwise render the groundwater unsuitable for its intended best usage as an existing or potential source of drinking water supply for humans. Every three years the State is required by 15A NCAC 02L .0202(g) to review its groundwater water quality standards and interim maximum allowable concentrations to determine if changes are needed and, if necessary, to make those changes. Revision of these standards is needed to ensure that they contain the most recent health and toxicological information. The last review focused on the interim maximum allowable concentrations established under 15A NCAC 02L .0202(c).

Proposed changes to 15A NCAC 02L .0202 include:

- The adoption of a groundwater quality standard for 44 substances with established interim maximum allowable concentrations, some with revisions,
- the addition of a groundwater quality standard for three substances (2,6-dinitrotoluene, strontium, and total PFOA and PFOS) without established interim maximum allowable concentrations,
- the organization of the groundwater standards into a table,
- the addition of Chemical Abstracts Service Registry Numbers (CASRNs) for the groundwater standards,
- the removal of synonyms,
- a change in some units of measure to parts per billion (µg/L), when appropriate,
- the addition of rule text to add a notification process for the establishment of an interim maximum allowable concentration, and
- the addition of rule text to clarify the triennial review process.

Comments may be submitted to: Bridget Shelton, NC DEQ-DWR Planning Section, 1611 Mail Service Center, Raleigh, NC 27699-1611; email GWTriRevComments@ncdenr.gov

Comment period ends: March 16, 2021

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 (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02L - GROUNDWATER CLASSIFICATION AND STANDARDS

SECTION .0200 - CLASSIFICATIONS AND GROUNDWATER QUALITY STANDARDS

15A NCAC 02L .0202 GROUNDWATER QUALITY STANDARDS

(a) The groundwater quality standards for the protection of the groundwaters of the state are those specified in this Rule. They are the maximum allowable concentrations resulting from any discharge of contaminants to the land or waters of the state, which may be tolerated without creating a threat to human health or which would otherwise render the groundwater unsuitable for its intended best usage.

(b) The groundwater quality standards for contaminants specified in Paragraphs (h) and (i) of this Rule are as listed, except that:

- (1) Where the standard for a substance is less than the practical quantitation limit, the detection of that substance at or above the practical quantitation limit constitutes a violation of the standard.
- (2) Where two or more substances exist in combination, the Director shall consider the effects of chemical interactions as determined by the Division of Public Health and may establish maximum concentrations at values less than those established in accordance with Paragraphs (c), (h), or (i) of this Rule. In the absence of information to the contrary, in accordance with Paragraph (d) of this Rule, the carcinogenic risks associated with carcinogens

present shall be considered additive and the toxic effects associated with non-carcinogens present shall also be considered additive.

- (3) Where naturally occurring substances exceed the established standard, the standard shall be the naturally occurring concentration as determined by the Director.
- (4) Where the groundwater standard for a substance is greater than the Maximum Contaminant Level (MCL), the Director shall apply the MCL as the groundwater standard at any private drinking water well or public water system well that may be impacted.

(c) Except for tracers used in concentrations which have been determined by the Division of Public Health to be protective of human health, and the use of which has been permitted by the Division, substances which are not naturally occurring and for which no standard is specified shall not be permitted in concentrations at or above the practical quantitation limit in Class GA or Class GSA groundwaters. Any person may petition the Director of the Division of Water Resources to establish an ~~interim maximum allowable concentration~~ Interim Maximum Allowable Concentration (IMAC) for a substance for which a standard has not been established under this Rule. The petitioner shall submit relevant toxicological and epidemiological data, study results, and calculations necessary to establish a standard in accordance with ~~Paragraph~~ Paragraphs (d) and (e) of this Rule. ~~Within three months after the establishment of an interim maximum allowable concentration for a substance by the Director, the Director shall initiate action to consider adoption of a standard for that substance. If the information submitted is not in accordance with Paragraphs (d) and (e) of this Rule, the Director of the Division of Water Resources shall request additional information from the petitioner. If the petitioner does not provide the additional information necessary to be in accordance with Paragraphs (d) and (e) of this Rule, the Director of the Division of Water Resources shall deny the petition. At least 30 days prior to establishing an IMAC for any substance, the Division of Water Resources shall provide public notice that an IMAC has been requested. The public notice shall include the petition requesting the establishment of the IMAC for a substance, the level of the proposed IMAC, and the basis upon which the Division of Water Resources has relied in development of the proposed IMAC. This notice shall be published in the North Carolina Register and posted on the Division of Water Resources's website: <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/groundwater-imacs>. If the Director of the Division of Water Resources establishes an IMAC, the IMAC shall be posted on the Division of Water Resources's website and the Commission shall be notified in writing within 30 calendar days that a new IMAC has been established.~~

(d) Except as provided in Paragraph (f) of this Rule, groundwater quality standards for substances in Class GA and Class GSA groundwaters are established as the least of:

- (1) Systemic threshold concentration calculated as follows: [Reference Dose (mg/kg/day) x 70 kg (adult body weight) x Relative Source Contribution] ~~(-10 (0.10 for inorganics; -20 0.20~~

for organics)] / [2 liters/day (avg. water consumption)];

- (2) Concentration which corresponds to an incremental lifetime cancer risk of 1×10^{-6} ;
- (3) Taste threshold limit value;
- (4) Odor threshold limit value;
- (5) Maximum contaminant level; or
- (6) National secondary drinking water standard.

(e) The following references, in order of preference, shall be used in establishing concentrations of substances which correspond to levels described in Paragraph (d) of this Rule.

- (1) Integrated Risk Information System (U.S. EPA).
- (2) Health Advisories (U.S. EPA Office of Drinking Water).
- (3) Other health risk assessment data published by the U.S. EPA.
- (4) Other relevant, published health risk assessment data, and scientifically valid peer-reviewed published toxicological data.

(f) The Commission may establish groundwater standards less stringent than existing maximum contaminant levels or national secondary drinking water standards if it finds, after public notice and opportunity for hearing, that:

- (1) more recent data published in the EPA health references listed in Paragraph (e) of this Rule results in a standard which is protective of public health, taste threshold, or odor threshold;
- (2) the standard will not endanger the public health and safety, including health and environmental effects from exposure to groundwater contaminants; and
- (3) compliance with a standard based on the maximum contaminant level or national secondary drinking water standard would produce serious hardship without equal or greater public benefit.

(g) Groundwater quality standards specified in Paragraphs (h) and (i) of this Rule and ~~interim maximum allowable concentrations~~ IMACs established pursuant to Paragraph (c) of this Rule shall be reviewed by the ~~Director~~ Division of Water Resources on a triennial ~~basis~~. Division and reported to the Commission. The Director of the Division of Water Resources shall consider the following actions during the review of an established IMAC:

- (1) recommend codifying the IMAC as a groundwater quality standard under this Rule;
- (2) update the IMAC value based on data published or rescinded subsequent to the previous review;
- (3) remove the IMAC based on data published or rescinded subsequent to the previous review; or
- (4) retain the IMAC at the current value;

Any IMAC recommended under Subparagraph (g)(1) of this Rule that the Commission does not codify shall remain an established IMAC and be reviewed during the next triennial review.

Appropriate modifications ~~Modifications~~ to established standards shall be ~~made~~ made, through rulemaking, in accordance with the ~~procedure~~ procedures prescribed in ~~Paragraph~~ Paragraphs (d) and

(e) of this Rule where modifications are considered appropriate based on data published subsequent to the previous review.

(h) Class GA Standards. Unless otherwise indicated, the standard refers to the total concentration in micrograms per liter ($\mu\text{g/L}$) of any constituent in a dissolved, colloidal or particulate form which is mobile in groundwater. This does not apply to sediment or other particulate matter which is preserved in a groundwater sample as a result of well construction or sampling procedures. The Class GA standards are:

- (1) Acenaphthene: 80;
- (2) Acenaphthylene: 200;
- (3) Acetone: 6 mg/L;
- (4) Acrylamide: 0.008;
- (5) Anthracene: 2 mg/L;
- (6) Arsenic: 10;
- (7) Atrazine and chlorotriazine metabolites: 3;
- (8) Barium: 700;
- (9) Benzene: 1;
- (10) Benzo(a)anthracene (benz(a)anthracene): 0.05;
- (11) Benzo(b)fluoranthene: 0.05;
- (12) Benzo(k)fluoranthene: 0.5;
- (13) Benzoic acid: 30 mg/L;
- (14) Benzo(g,h,i)perylene: 200;
- (15) Benzo(a)pyrene: 0.005;
- (16) Bis(chloroethyl)ether: 0.03;
- (17) Bis(2-ethylhexyl) phthalate (di(2-ethylhexyl) phthalate): 3;
- (18) Boron: 700;
- (19) Bromodichloromethane: 0.6;
- (20) Bromoform (tribromomethane): 4;
- (21) n-Butylbenzene: 70;
- (22) sec-Butylbenzene: 70;
- (23) tert-Butylbenzene: 70;
- (24) Butylbenzyl phthalate: 1 mg/L;
- (25) Cadmium: 2;
- (26) Caprolactam: 4 mg/L;
- (27) Carbofuran: 40;
- (28) Carbon disulfide: 700;
- (29) Carbon tetrachloride: 0.3;
- (30) Chlordane: 0.1;
- (31) Chloride: 250 mg/L;
- (32) Chlorobenzene: 50;
- (33) Chloroethane: 3,000;
- (34) Chloroform (trichloromethane): 70;
- (35) Chloromethane (methyl chloride): 3;
- (36) 2-Chlorophenol: 0.4;
- (37) 2-Chlorotoluene (o-chlorotoluene): 100;
- (38) Chromium: 10;
- (39) Chrysene: 5;
- (40) Coliform organisms (total): 1 per 100 mL;
- (41) Color: 15 color units;
- (42) Copper: 1 mg/L;
- (43) Cyanide (free cyanide): 70;
- (44) 2, 4-D (2,4-dichlorophenoxy acetic acid): 70;
- (45) DDD: 0.1;
- (46) DDT: 0.1;
- (47) Dibenz(a,h)anthracene: 0.005;
- (48) Dibromochloromethane: 0.4;
- (49) 1,2-Dibromo-3-chloropropane: 0.04;

PROPOSED RULES

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|------|----------------------------------------------------------------------------------------|-------|---------------------------------------------------------------|
| (50) | Dibutyl (or di-n-butyl) phthalate: 700; | (98) | Lindane—(gamma—hexachlorocyclohexane): 0.03; |
| (51) | 1,2-Dichlorobenzene (orthodichlorobenzene): 20; | (99) | Manganese: 50; |
| (52) | 1,3-Dichlorobenzene (metadichlorobenzene): 200; | (100) | Mercury: 1; |
| (53) | 1,4-Dichlorobenzene (paradichlorobenzene): 6; | (101) | Methanol: 4 mg/L; |
| (54) | Dichlorodifluoromethane (Freon-12; Halon): 1 mg/L; | (102) | Methoxychlor: 40; |
| (55) | 1,1-Dichloroethane: 6; | (103) | Methylene chloride (dichloromethane): 5; |
| (56) | 1,2-Dichloroethane (ethylene dichloride): 0.4; | (104) | Methyl ethyl ketone (2-butanone): 4 mg/L; |
| (57) | 1,2-Dichloroethene (cis): 70; | (105) | 2-Methylnaphthalene: 30; |
| (58) | 1,2-Dichloroethene (trans): 100; | (106) | 3-Methylphenol (m-cresol): 400; |
| (59) | 1,1-Dichloroethylene (vinylidene chloride): 350; | (107) | 4-Methylphenol (p-cresol): 40; |
| (60) | 1,2-Dichloropropane: 0.6; | (108) | Methyl tert-butyl ether (MTBE): 20; |
| (61) | 1,3-Dichloropropene (cis and trans isomers): 0.4; | (109) | Naphthalene: 6; |
| (62) | Dieldrin: 0.002; | (110) | Nickel: 100; |
| (63) | Diethylphthalate: 6 mg/L; | (111) | Nitrate (as N): 10 mg/L; |
| (64) | 2,4-Dimethylphenol (m-xylene): 100; | (112) | Nitrite (as N): 1 mg/L; |
| (65) | Di-n-octyl phthalate: 100; | (113) | N-nitrosodimethylamine: 0.0007; |
| (66) | 1,4-Dioxane (p-dioxane): 3; | (114) | Oxamyl: 200; |
| (67) | Dioxin (2,3,7,8-TCDD): 0.0002 ng/L; | (115) | Pentachlorophenol: 0.3; |
| (68) | 1,1-Diphenyl (1,1-biphenyl): 400; | (116) | Petroleum aliphatic carbon fraction class (C5–C8): 400; |
| (69) | Dissolved solids (total): 500 mg/L; | (117) | Petroleum aliphatic carbon fraction class (C9–C18): 700; |
| (70) | Disulfoton: 0.3; | (118) | Petroleum aliphatic carbon fraction class (C19–C36): 10 mg/L; |
| (71) | Diundecyl phthalate (Santicizer 711): 100; | (119) | Petroleum aromatics carbon fraction class (C9–C22): 200; |
| (72) | Endosulfan: 40; | (120) | pH: 6.5–8.5; |
| (73) | Endrin, total (includes endrin, endrin aldehyde and endrin ketone): 2; | (121) | Phenanthrene: 200; |
| (74) | Epichlorohydrin: 4; | (122) | Phenol: 30; |
| (75) | Ethyl acetate: 3 mg/L; | (123) | Phorate: 1; |
| (76) | Ethylbenzene: 600; | (124) | n-Propylbenzene: 70; |
| (77) | Ethylene dibromide (1,2-dibromoethane): 0.02; | (125) | Pyrene: 200; |
| (78) | Ethylene glycol: 10 mg/L; | (126) | Selenium: 20; |
| (79) | Fluoranthene: 300; | (127) | Silver: 20; |
| (80) | Fluorene: 300; | (128) | Simazine: 4; |
| (81) | Fluoride: 2 mg/L; | (129) | Styrene: 70; |
| (82) | Foaming agents: 500; | (130) | Sulfate: 250 mg/L; |
| (83) | Formaldehyde: 600; | (131) | 1,1,2,2-Tetrachloroethane: 0.2; |
| (84) | Gross alpha (adjusted) particle activity (excluding radium-226 and uranium): 15 pCi/L; | (132) | Tetrachloroethylene (perchloroethylene; PCE): 0.7; |
| (85) | Heptachlor: 0.008; | (133) | 2,3,4,6-Tetrachlorophenol: 200; |
| (86) | Heptachlor epoxide: 0.004; | (134) | Toluene: 600; |
| (87) | Heptane: 400; | (135) | Toxaphene: 0.03; |
| (88) | Hexachlorobenzene (perchlorobenzene): 0.02; | (136) | 2,4,5-TP (Silvex): 50; |
| (89) | Hexachlorobutadiene: 0.4; | (137) | 1,2,4-Trichlorobenzene: 70; |
| (90) | Hexachlorocyclohexane isomers (technical grade): 0.02; | (138) | 1,1,1-Trichloroethane: 200; |
| (91) | n-Hexane: 400; | (139) | Trichloroethylene (TCE): 3; |
| (92) | Indeno(1,2,3-cd)pyrene: 0.05; | (140) | Trichlorofluoromethane: 2 mg/L; |
| (93) | Iron: 300; | (141) | 1,2,3-Trichloropropane: 0.005; |
| (94) | Isophorone: 40; | (142) | 1,2,4-Trimethylbenzene: 400; |
| (95) | Isopropylbenzene: 70; | (143) | 1,3,5-Trimethylbenzene: 400; |
| (96) | Isopropyl ether: 70; | (144) | 1,1,2-Trichloro-1,2,2-trifluoroethane (CFC-113): 200 mg/L; |
| (97) | Lead: 15; | (145) | Vinyl chloride: 0.03; |
| | | (146) | Xylenes (o-, m-, and p-): 500; and |
| | | (147) | Zinc: 1 mg/L. |

PROPOSED RULES

<u>Substance</u>	<u>Chemical Abstracts Service (CAS) Registry Number</u>	<u>Standard (µg/L)</u>
<u>Acenaphthene</u>	<u>83-32-9</u>	<u>80</u>
<u>Acenaphthylene</u>	<u>208-96-8</u>	<u>200</u>
<u>Acetic acid</u>	<u>64-19-7</u>	<u>5,000</u>
<u>Acetochlor</u>	<u>34256-82-1</u>	<u>100</u>
<u>Acetochlor ESA</u>	<u>187022-11-3</u>	<u>500</u>
<u>Acetochlor OXA</u>	<u>184992-44-4</u>	<u>500</u>
<u>Acetone</u>	<u>67-64-1</u>	<u>6,000</u>
<u>Acetophenone</u>	<u>98-86-2</u>	<u>700</u>
<u>Acrolein</u>	<u>107-02-8</u>	<u>4</u>
<u>Acrylamide</u>	<u>79-06-1</u>	<u>0.008</u>
<u>Alachlor</u>	<u>15972-60-8</u>	<u>2</u>
<u>Aldrin</u>	<u>309-00-2</u>	<u>0.002</u>
<u>Anthracene</u>	<u>120-12-7</u>	<u>2,000</u>
<u>Antimony</u>	<u>7440-36-0</u>	<u>1</u>
<u>Arsenic</u>	<u>7440-38-2</u>	<u>10</u>
<u>Atrazine and chlorotriazine metabolites</u>	<u>1912-24-9</u>	<u>3</u>
<u>Barium</u>	<u>7440-39-3</u>	<u>700</u>
<u>Benzene</u>	<u>71-43-2</u>	<u>1</u>
<u>Benzo(a)anthracene</u>	<u>56-55-3</u>	<u>0.05</u>
<u>Benzo(a)pyrene</u>	<u>50-32-8</u>	<u>0.005</u>
<u>Benzo(b)fluoranthene</u>	<u>205-99-2</u>	<u>0.05</u>
<u>Benzo(g,h,i)perylene</u>	<u>191-24-2</u>	<u>200</u>
<u>Benzo(k)fluoranthene</u>	<u>207-08-9</u>	<u>0.5</u>
<u>Benzoic acid</u>	<u>65-85-0</u>	<u>30,000</u>
<u>Benzyl alcohol</u>	<u>100-51-6</u>	<u>700</u>
<u>Beryllium</u>	<u>7440-41-7</u>	<u>4</u>
<u>Bis(chloroethyl)ether</u>	<u>111-44-4</u>	<u>0.03</u>
<u>Bis(2-ethylhexyl) phthalate</u>	<u>117-81-7</u>	<u>3</u>
<u>Boron</u>	<u>7440-42-8</u>	<u>700</u>
<u>Bromodichloromethane</u>	<u>75-27-4</u>	<u>0.6</u>
<u>Bromoform</u>	<u>75-25-2</u>	<u>4</u>
<u>Bromomethane</u>	<u>74-839-9</u>	<u>10</u>
<u>n-Butanol</u>	<u>71-36-3</u>	<u>590</u>
<u>sec-Butanol</u>	<u>78-92-2</u>	<u>10,000</u>
<u>n-Butylbenzene</u>	<u>104-51-8</u>	<u>70</u>
<u>sec-Butylbenzene</u>	<u>135-98-8</u>	<u>70</u>
<u>tert-Butylbenzene</u>	<u>98-06-6</u>	<u>70</u>
<u>Butylbenzyl phthalate</u>	<u>85-68-7</u>	<u>1,000</u>
<u>Cadmium</u>	<u>7440-43-9</u>	<u>2</u>
<u>Caprolactam</u>	<u>105-60-2</u>	<u>4,000</u>
<u>Carbofuran</u>	<u>1563-66-2</u>	<u>40</u>
<u>Carbon disulfide</u>	<u>75-15-0</u>	<u>700</u>
<u>Carbon tetrachloride</u>	<u>56-23-5</u>	<u>0.3</u>
<u>Chlordane</u>	<u>12789-03-6</u>	<u>0.1</u>
<u>Chloride</u>	<u>16887-00-6</u>	<u>250,000</u>
<u>Chlorobenzene</u>	<u>108-90-7</u>	<u>50</u>
<u>Chloroethane</u>	<u>75-00-3</u>	<u>3,000</u>
<u>Chloroform</u>	<u>67-66-3</u>	<u>70</u>
<u>Chloromethane</u>	<u>74-87-3</u>	<u>3</u>
<u>2-Chlorophenol</u>	<u>95-57-8</u>	<u>0.4</u>
<u>2-Chlorotoluene</u>	<u>95-49-8</u>	<u>100</u>
<u>4-Chlorotoluene</u>	<u>106-43-4</u>	<u>24</u>

PROPOSED RULES

<u>Chromium</u>	<u>7440-47-3</u>	<u>10</u>
<u>Chrysene</u>	<u>218-01-9</u>	<u>5</u>
<u>Cobalt</u>	<u>7440-48-4</u>	<u>1</u>
<u>Coliform organisms (total)</u>	<u>No CAS Registry Number</u>	<u>1 per 100 mL</u>
<u>Color</u>	<u>No CAS Registry Number</u>	<u>15 color units</u>
<u>Copper</u>	<u>7440-50-8</u>	<u>1,000</u>
<u>Cyanide (free cyanide)</u>	<u>57-12-5</u>	<u>70</u>
<u>2,4-D (2,4-dichlorophenoxy acetic acid)</u>	<u>94-75-7</u>	<u>70</u>
<u>Dalapon</u>	<u>75-99-0</u>	<u>200</u>
<u>DDD</u>	<u>72-54-8</u>	<u>0.1</u>
<u>DDE</u>	<u>72-55-9</u>	<u>0.1</u>
<u>DDT</u>	<u>50-29-3</u>	<u>0.1</u>
<u>Dibenz(a,h)anthracene</u>	<u>53-70-3</u>	<u>0.005</u>
<u>1,4-Dibromobenzene</u>	<u>106-37-06</u>	<u>70</u>
<u>Dibromochloromethane</u>	<u>124-48-1</u>	<u>0.4</u>
<u>1,2-Dibromo-3-chloropropane</u>	<u>96-12-8</u>	<u>0.04</u>
<u>Dibutyl phthalate</u>	<u>84-74-2</u>	<u>700</u>
<u>Dichloroacetic acid</u>	<u>79-43-6</u>	<u>0.7</u>
<u>1,2-Dichlorobenzene</u>	<u>95-50-1</u>	<u>20</u>
<u>1,3-Dichlorobenzene</u>	<u>541-73-1</u>	<u>200</u>
<u>1,4-Dichlorobenzene</u>	<u>106-46-7</u>	<u>6</u>
<u>Dichlorodifluoromethane</u>	<u>75-71-8</u>	<u>1,000</u>
<u>1,1-Dichloroethane</u>	<u>75-34-3</u>	<u>6</u>
<u>1,2-Dichloroethane</u>	<u>107-06-2</u>	<u>0.4</u>
<u>1,2-Dichloroethene (cis)</u>	<u>156-59-2</u>	<u>70</u>
<u>1,2-Dichloroethene (trans)</u>	<u>156-60-5</u>	<u>100</u>
<u>1,1-Dichloroethylene</u>	<u>75-35-4</u>	<u>350</u>
<u>2,4-Dichlorophenol</u>	<u>120-83-2</u>	<u>0.98</u>
<u>1,2-Dichloropropane</u>	<u>78-87-5</u>	<u>0.6</u>
<u>1,3-Dichloropropene (cis and trans isomers)</u>	<u>542-75-6</u>	<u>0.4</u>
<u>Dieldrin</u>	<u>60-57-1</u>	<u>0.002</u>
<u>Diethylphthalate</u>	<u>84-66-2</u>	<u>6,000</u>
<u>2,4-Dimethylphenol</u>	<u>105-67-9</u>	<u>100</u>
<u>2,4-Dinitrotoluene</u>	<u>121-14-2</u>	<u>0.05</u>
<u>2,6-Dinitrotoluene</u>	<u>606-20-2</u>	<u>0.05</u>
<u>Di-n-octyl phthalate</u>	<u>117-84-0</u>	<u>100</u>
<u>Dinoseb</u>	<u>88-85-7</u>	<u>7</u>
<u>1,4-Dioxane</u>	<u>123-91-1</u>	<u>3</u>
<u>Dioxin (2,3,7,8-TCDD)</u>	<u>1746-01-6</u>	<u>0.0002 ng/L</u>
<u>1,1-Diphenyl</u>	<u>92-52-4</u>	<u>400</u>
<u>Diphenyl ether</u>	<u>101-84-8</u>	<u>180</u>
<u>Diquat</u>	<u>85-00-7</u>	<u>20</u>
<u>Dissolved solids (total)</u>	<u>No CAS Registry Number</u>	<u>500,000</u>
<u>Disulfoton</u>	<u>298-04-4</u>	<u>0.3</u>
<u>Diundecyl phthalate (Santicizer 711)</u>	<u>3648-20-2</u>	<u>100</u>
<u>Endosulfan</u>	<u>115-29-7</u>	<u>40</u>
<u>Endosulfan sulfate</u>	<u>115-29-7</u>	<u>40</u>
<u>Endothall</u>	<u>145-73-3</u>	<u>100</u>
<u>Endrin, total (includes endrin, endrin aldehyde, and endrin ketone)</u>	<u>72-20-8</u>	<u>2</u>
<u>Epichlorohydrin</u>	<u>106-89-8</u>	<u>4</u>
<u>Ethyl acetate</u>	<u>141-78-6</u>	<u>3,000</u>
<u>Ethylbenzene</u>	<u>100-41-4</u>	<u>600</u>
<u>Ethylene dibromide</u>	<u>106-93-4</u>	<u>0.02</u>
<u>Ethylene glycol</u>	<u>107-21-1</u>	<u>10,000</u>

PROPOSED RULES

<u>Fluoranthene</u>	<u>206-44-0</u>	<u>300</u>
<u>Fluorene</u>	<u>86-73-7</u>	<u>300</u>
<u>Fluoride</u>	<u>16984-48-8</u>	<u>2,000</u>
<u>Foaming agents</u>	<u>No CAS Registry Number</u>	<u>500</u>
<u>Formaldehyde</u>	<u>50-00-0</u>	<u>600</u>
<u>Gross alpha (adjusted) particle activity (excludes radium-226 and uranium)</u>	<u>12587-46-1</u>	<u>15 pCi/L</u>
<u>Heptachlor</u>	<u>76-44-8</u>	<u>0.008</u>
<u>Heptachlor epoxide</u>	<u>1024-57-3</u>	<u>0.004</u>
<u>Heptane</u>	<u>142-82-5</u>	<u>400</u>
<u>Hexachlorobenzene</u>	<u>118-74-1</u>	<u>0.02</u>
<u>Hexachlorobutadiene</u>	<u>87-68-3</u>	<u>0.4</u>
<u>Hexachlorocyclohexane isomers (technical grade)</u>	<u>608-73-1</u>	<u>0.02</u>
<u>alpha-Hexachlorocyclohexane</u>	<u>319-84-6</u>	<u>0.006</u>
<u>beta-Hexachlorocyclohexane</u>	<u>319-85-7</u>	<u>0.02</u>
<u>gamma-Hexachlorocyclohexane (Lindane)</u>	<u>58-89-9</u>	<u>0.03</u>
<u>n-Hexane</u>	<u>110-54-3</u>	<u>400</u>
<u>Indeno(1,2,3-cd)pyrene</u>	<u>193-39-5</u>	<u>0.05</u>
<u>Iron</u>	<u>7439-89-6</u>	<u>300</u>
<u>Isophorone</u>	<u>78-59-1</u>	<u>40</u>
<u>Isopropyl ether</u>	<u>108-20-3</u>	<u>70</u>
<u>Isopropylbenzene</u>	<u>98-82-8</u>	<u>70</u>
<u>4-Isopropyltoluene</u>	<u>99-87-6</u>	<u>25</u>
<u>Lead</u>	<u>7439-92-1</u>	<u>15</u>
<u>Manganese</u>	<u>7439-96-5</u>	<u>50</u>
<u>Mercury</u>	<u>7439-97-6</u>	<u>1</u>
<u>Methanol</u>	<u>67-56-1</u>	<u>4,000</u>
<u>Methoxychlor</u>	<u>72-43-5</u>	<u>40</u>
<u>Methylene chloride</u>	<u>75-09-2</u>	<u>5</u>
<u>Methyl butyl ketone</u>	<u>591-78-6</u>	<u>40</u>
<u>Methyl ethyl ketone</u>	<u>78-93-3</u>	<u>4,000</u>
<u>Methyl isobutyl ketone</u>	<u>108-10-1</u>	<u>100</u>
<u>Methyl methacrylate</u>	<u>80-62-6</u>	<u>25</u>
<u>1-Methylnaphthalene</u>	<u>90-12-0</u>	<u>1</u>
<u>2-Methylnaphthalene</u>	<u>91-57-6</u>	<u>30</u>
<u>2-Methylphenol</u>	<u>95-48-7</u>	<u>400</u>
<u>3-Methylphenol</u>	<u>108-39-4</u>	<u>400</u>
<u>4-Methylphenol</u>	<u>106-44-5</u>	<u>40</u>
<u>Methyl tert-butyl ether (MTBE)</u>	<u>1634-04-4</u>	<u>20</u>
<u>Naphthalene</u>	<u>91-20-3</u>	<u>6</u>
<u>Nickel</u>	<u>7440-02-0</u>	<u>100</u>
<u>Nitrate (as N)</u>	<u>14797-55-8</u>	<u>10,000</u>
<u>Nitrite (as N)</u>	<u>14797-65-0</u>	<u>1,000</u>
<u>N-nitrosodimethylamine</u>	<u>62-75-9</u>	<u>0.0007</u>
<u>Oxamyl</u>	<u>23135-22-0</u>	<u>200</u>
<u>Pentachlorophenol</u>	<u>608-93-5</u>	<u>0.3</u>
<u>Perfluorooctane sulfonic acid (PFOS) and Perfluorooctanoic acid (PFOA), total</u>	<u>1763-23-1 (PFOS); 335-67-1 (PFOA)</u>	<u>0.07</u>
<u>Petroleum aliphatic carbon fraction class (C5 – C8)</u>	<u>No CAS Registry Number</u>	<u>400</u>
<u>Petroleum aliphatic carbon fraction class (C9 – C18)</u>	<u>No CAS Registry Number</u>	<u>700</u>
<u>Petroleum aliphatic carbon fraction class (C19 – C36)</u>	<u>No CAS Registry Number</u>	<u>10,000</u>
<u>Petroleum aromatics carbon fraction class (C9 – C22)</u>	<u>No CAS Registry Number</u>	<u>200</u>
<u>pH</u>	<u>No CAS Registry Number</u>	<u>6.5 - 8.5 (no unit)</u>
<u>Phenanthrene</u>	<u>85-01-8</u>	<u>200</u>
<u>Phenol</u>	<u>108-95-2</u>	<u>30</u>

PROPOSED RULES

<u>Phorate</u>	<u>298-02-2</u>	<u>1</u>
<u>n-Propylbenzene</u>	<u>103-65-1</u>	<u>70</u>
<u>Propylene glycol</u>	<u>57-55-6</u>	<u>100,000</u>
<u>Pyrene</u>	<u>129-00-0</u>	<u>200</u>
<u>Selenium</u>	<u>7782-49-2</u>	<u>20</u>
<u>Silver</u>	<u>7440-22-4</u>	<u>20</u>
<u>Simazine</u>	<u>122-34-9</u>	<u>4</u>
<u>Strontium</u>	<u>7440-24-6</u>	<u>2,000</u>
<u>Styrene</u>	<u>100-42-5</u>	<u>70</u>
<u>Sulfate</u>	<u>14808-79-8</u>	<u>250,000</u>
<u>1,2,4,5-Tetrachlorobenzene</u>	<u>95-94-3</u>	<u>2</u>
<u>1,1,2,2-Tetrachloroethane</u>	<u>79-34-5</u>	<u>0.2</u>
<u>1,1,1,2-Tetrachloroethane</u>	<u>630-20-6</u>	<u>1</u>
<u>Tetrachloroethylene (PCE)</u>	<u>127-18-4</u>	<u>0.7</u>
<u>2,3,4,6-Tetrachlorophenol</u>	<u>58-90-2</u>	<u>200</u>
<u>Thallium</u>	<u>7440-28-0</u>	<u>2</u>
<u>Tin (inorganic forms)</u>	<u>7440-31-5</u>	<u>2,000</u>
<u>Toluene</u>	<u>108-88-3</u>	<u>600</u>
<u>Toxaphene</u>	<u>8001-35-2</u>	<u>0.03</u>
<u>2,4,5-TP (Silvex)</u>	<u>93-72-1</u>	<u>50</u>
<u>1,2,4-Trichlorobenzene</u>	<u>120-82-1</u>	<u>70</u>
<u>1,1,1-Trichloroethane</u>	<u>71-55-6</u>	<u>200</u>
<u>1,1,2-Trichloroethane</u>	<u>79-00-5</u>	<u>0.6</u>
<u>Trichloroethylene (TCE)</u>	<u>79-01-6</u>	<u>3</u>
<u>Trichlorofluoromethane</u>	<u>75-69-4</u>	<u>2,000</u>
<u>2,4,5-Trichlorophenol</u>	<u>95-95-4</u>	<u>63</u>
<u>2,4,6-Trichlorophenol</u>	<u>88-06-2</u>	<u>4</u>
<u>1,2,3-Trichloropropane</u>	<u>96-18-4</u>	<u>0.005</u>
<u>1,2,4-Trimethylbenzene</u>	<u>95-63-6</u>	<u>400</u>
<u>1,3,5-Trimethylbenzene</u>	<u>108-67-8</u>	<u>400</u>
<u>Vanadium</u>	<u>7440-62-2</u>	<u>7</u>
<u>1,1,2-Trichloro-1,2,2-trifluoroethane</u>	<u>76-13-1</u>	<u>200,000</u>
<u>Vinyl chloride</u>	<u>75-01-4</u>	<u>0.03</u>
<u>Xylenes</u>	<u>1330-20-7</u>	<u>500</u>
<u>Zinc</u>	<u>7440-66-6</u>	<u>1,000</u>

(i) Class GSA Standards. The standards for this class are the same as those for Class GA except as follows:

- (1) chloride: allowable increase not to exceed 100 percent of the natural quality concentration; and
- (2) dissolved solids (total): ~~4000 mg/L~~ 1,000,000 µg/L.

(j) Class GC Standards.

- (1) The concentrations of substances that, at the time of classification, exceed the standards applicable to Class GA or GSA groundwaters shall not be caused to increase, nor shall the concentrations of other substances be caused to exceed the GA or GSA standards as a result of further disposal of contaminants to or beneath the surface of the land within the boundary of the area classified GC.
- (2) The concentrations of substances that, at the time of classification, exceed the standards applicable to GA or GSA groundwaters shall not be caused to migrate as a result of activities within the boundary of the GC classification, so

as to violate the groundwater or surface water quality standards in adjoining waters of a different class.

- (3) Concentrations of specific substances, that exceed the established standard at the time of classification, are listed in Section .0300 of this Subchapter.

Authority G.S. 143-214.1; 143B-282(a)(2).

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 10H .1201-.1204.

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

Proposed Effective Date: *May 1, 2021*

Public Hearing:

Date: February 3, 2021

Time: 2:00 PM

Location: Register online here:

https://ncwildlife.zoom.us/webinar/register/WN_R-kZz-qZSt2HZqy0bgKL_w Join by phone toll free (888-788-0099 or 877-853-5247) using Webinar ID: 962 0532 3799

Reason for Proposed Action: *The Commission received a petition for rulemaking on September 10, 2020. In that petition, amendments were proposed to the following rules: 15A NCAC 10H .1201, .1202, .1203, and .1204. As part of the periodic review process, the Commission had initiated rulemaking for all rules in Section 10H .1200 in August 2020. At their December 10, 2020 meeting, the WRC voted to grant the petition. However, the Commission also voted to readopt the 10H .1200 rules, as required by G.S. 150B-21.3A(d)(2), which may address some of the petitioner’s concerns. The rulemaking initiated in August will be reviewed by the RRC in January and those readoptions are anticipated to become effective February 1, 2021; thus, the language in this Notice will differ from the language that has been readopted by the agency.*

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

Comment period ends: *March 16, 2021*

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 (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10H – REGULATED ACTIVITIES

SECTION .1200 - CONTROLLED FOX HUNTING PRESERVES

15A NCAC 10H .1201 LICENSE TO OPERATE

(a) It shall be unlawful for any individual, firm, association or corporation to operate a controlled fox hunting preserve without first obtaining from the North Carolina Wildlife Resources Commission a license for this purpose.

(b) A controlled fox hunting preserve license shall entitle the holder or holders and their guests, to hunt foxes and coyotes at any time ~~within the fenced area~~ between the hours of 8a.m. and 6p.m. Monday through Saturday within the fenced area. No Hunting on Sunday. No dogs left overnight. Controlled fox hunting preserve licenses shall not be transferable, either as to operator or as to site of operation

(c) Applicants shall be prepared to show proof of ownership of the land contained in the proposed controlled fox hunting preserve or that they have this land under lease for the duration of the license period. Applications for controlled fox hunting preserve licenses shall be made on forms obtained from the Commission.

(d) Upon receipt of an application accompanied by the statutory fee, the Commission shall notify local Code Enforcement Officials for the jurisdiction to assure compliance with local rules and regulations prior to issuance of issue a license, provided it is determined that the location and operation of such a hunting preserve is consistent with the wildlife conservation program and in the public interest; and further provided that all regulations herein regarding establishment of such areas have been complied with.

Authority G.S. 113-134; 113-273(g).

15A NCAC 10H .1202 ESTABLISHMENT AND OPERATION

(a) Size of Preserve. Controlled fox hunting preserves operated for commercial purposes shall be an area of not less than 500 acres except that smaller areas containing terrain and topographical features which offer escape cover to the fox and coyote populations are allowed under specific approval by the Wildlife Resources Commission.

(1) in areas less than 500 acres, zoned residential and within a one mile (or less) radius of residence(s) the following is required:

- (A) A natural buffer
- (B) 100 ft Set Back from adjoining property
- (C) Dog proof fence shall be no closer than 300 yards to a home residence.
- (D) CONTROLLED FOX HUNTING PRESERVES shall be required to obtain "Commercial Zoning" code prior to receiving a license.

(b) Boundary of Preserve. A controlled fox hunting preserve must be enclosed with a dog-proof fence that is also designed to prevent the escape of foxes and coyotes released within the pen. This fencing must be maintained at all times.

(1) A controlled fox hunting preserve must be enclosed with a dog-proof fence with rollers at top that is 16 height and 5 feet depth to prevent

the escape of foxes and coyotes released within the pen.

(c) Stocking Preserve With Game:

- (1) In addition to purchasing live foxes and coyotes as provided in G.S. 113-273(g), operators of controlled fox hunting preserves may also purchase live foxes and coyotes from licensed controlled fox hunting preserves, licensed North Carolina fur propagators, or persons holding foxes legally under a North Carolina wildlife captivity license.
- (2) Licensed controlled fox hunting preserve operators may hold legally obtained foxes and coyotes under rules that apply to a captivity license and may transport legally acquired foxes and coyotes from the place of purchase to the controlled fox hunting preserve.
- (3) Foxes and coyotes may not be imported into North Carolina for release into controlled fox hunting preserves.
- (4) The release of exotic wildlife into the controlled fox hunting preserves is specifically prohibited.
- (5) The possession of exotic wildlife on controlled fox hunting preserves is specifically prohibited.
- (6) Two foxes and coyotes permitted per 50 acres.

Authority G.S. 113-134; 113-273(g).

15A NCAC 10H .1203 QUALITY OF FOXES AND COYOTES RELEASED

All foxes and coyotes purchased or raised for release on controlled fox hunting preserves shall be healthy and free from disease of any kind. An examination and inspection of the foxes and coyotes by the Wildlife Resources Commission ~~may be conducted at any time.~~ shall be conducted at least twice a year. All dead foxes and coyotes, except those killed by dogs during a hunt, or diseased foxes and coyotes found within the pen shall be submitted to a North Carolina Department of Agriculture diagnostic lab for diagnosis. A copy of the diagnostic report shall be mailed to the Wildlife Resources Commission. Possession of unhealthy or diseased foxes and coyotes shall be grounds for revocation or denial of a controlled fox hunting preserve license. The Commission may quarantine any controlled fox hunting preserve where contagious diseases are located.

Authority G.S. 113-134; 113-273(g).

15A NCAC 10H .1204 RECORDS REQUIRED

An accurate record including bill of sale for all foxes and coyotes released into the controlled fox hunting preserve shall be maintained and available for inspection by officials of the North Carolina Wildlife Resources Commission at all times. Failure to maintain accurate up to date records upon inspection will result in citation with repeat offenses resulting in revocation of license.

Authority G.S. 113-134; 113-273(g).

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Department of Transportation - Division of Motor Vehicles intends to readopt without substantive changes the rules cited as 19A NCAC 03C .0102, .0201, .0202, .0220-.0230, .0232-.0237, .0403, .0404, .0414, .0419-.0429, .0431-.0433, .0436, .0501, .0520, .0521; 03E .0401; 03F .0201-.0203, .0602; 03G .0208, .0301; 03I .0303, .0307, .0402, .0501; 03J .0201, .0204, .0303, .0305-.0307, .0402, .0601 and repeal through readoption the rules cited as 19A NCAC 03C .0101; and 03G .0212.

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

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.ncdot.gov/about-us/how-we-operate/policy-process/rules/pages/default.aspx>

Proposed Effective Date: May 1, 2021

Public Hearing:

Date: March 2, 2021

Time: 10:00 a.m.

Location: *Virtual Meeting using a computer, tablet or smartphone: <https://global.gotomeeting.com/join/648326853>. If no computer access, please call in to the meeting at 1-571-317-3112 then dial access code: 648-326-853*

Reason for Proposed Action: *Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years or they shall expire. As a result of the periodic review of Subchapters 19A NCAC 03B, 03C, 03D, 03E, 03F, 03G, 03I, and 03J these proposed rules were determined as "Necessary with Substantive Public Interest" thus necessitating readoption.*

Upon review for the readoption process, the agency deemed the following rules to be necessary without substantive changes and are recommended for readoption: 19A NCAC 03C .0102, .0201, .0202, .0220-.0230, .0232-.0237, .0403, .0404, .0414, .0419-.0429, .0431-.0433, .0436, .0501, .0520, and .0521; 19A NCAC 03E .0401; 19A NCAC 03F .0201-.0203, and .0602; 19A NCAC 03G .0208, and .0301; 19A NCAC 03I .0303, .0307, .0402, and .0501; and 19A NCAC 03J .0201, .0204, .0303, .0305-.0307, .0402, and .0601.

Upon review for the readoption process, the agency deemed the following rules to be unnecessary and is recommending repeal: 19A NCAC 03C .0101 and 19A NCAC 03G .0212.

Comments may be submitted to: *Hanna D. Jernigan, 1501 Mail Service Center, Raleigh, NC 27699-1501; email Rulemaking@ncdot.gov*

Comment period ends: March 16, 2021

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 (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 03 - DIVISION OF MOTOR VEHICLES

SUBCHAPTER 03C - VEHICLE REGISTRATION SECTION

SECTION .0100 - GENERAL INFORMATION

19A NCAC 03C .0101 PURPOSE

Authority G.S. 20-4.01 through 20-4.12; 20-37.6; 20-39; 20-42; 20-44 through 20-53; 20-54 through 20-58; 20-58.4 through 20-58.10; 20-63.1; 20-64 through 20-79.3; 20-80 through 20-81; 20-81.2 through 20-81.7; 20-83 through 20-88; 20-88.1; 20-94; 20-95; 20-109.1; 20-114; 20-116; 20-118; 20-279; 20-286; 20-294; 20-309 through 20-319; 20-347; 14-401.4; 105-164.3(16); 105-164.4(1); 105-164; 105-314.

19A NCAC 03C .0102 FORMS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0200 - REGISTRATION

19A NCAC 03C .0201 FUNCTION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0202 TITLING AND REGISTRATION OF BRANDED VEHICLES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0220 MANUFACTURER'S CERTIFICATE OF ORIGIN (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0221 REGISTRATION: OUT-OF-STATE REGISTERED VEHICLES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0222 REGISTRATION: CUSTOM BUILT MOTOR VEHICLES AND TRAILERS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0223 REGISTRATION: MOTOR HOMES: ETC. (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0224 PURCHASE INFORMATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0225 CLASS OF LICENSE PLATE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0226 REGISTRATION: BUSES TO BE OPERATED FOR HIRE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0227 DATE FIRST OPERATED (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0228 TITLE ONLY (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0229 SIGNATURE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0230 POWERS OF ATTORNEY: GUARDIANS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0232 REGISTRATION INFORMATION AND CERTIFIED RECORDS FEES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0233 LEASED VEHICLES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0234 MINORS MAY OWN VEHICLE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0235 APPLICATION FOR DUPLICATE TITLE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0236 PENALTY FOR FAILURE TO MAKE TRANSFER WITHIN 28 DAYS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0237 DISPLAY OF LICENSE PLATE RENEWAL STICKER (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0400 - MOTOR VEHICLES OPERATED FOR-HIRE

PROPOSED RULES

19A NCAC 03C .0403 VAN POOL LICENSE PLATE
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0404 ORIGINAL REGISTRATION:
STAGGERED REGISTRATION SYSTEM (READOPTION
WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0414 APPLICATION FOR LICENSE
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0419 GOLF CARTS (READOPTION
WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0420 HANDICAPPED PLACARD
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0421 VEHICLES USED FOR
PASSENGER AND PROPERTY CARRYING
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0422 TRAILERS (READOPTION
WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0423 SELF-PROPELLED CAMPING
VEHICLES (READOPTION WITHOUT SUBSTANTIVE
CHANGES)

19A NCAC 03C .0424 TRUCKS AND
TRUCK-TRACTORS (PRIVATE PROPERTY CARRYING)
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0425 SPECIAL MOBILE EQUIPMENT
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0426 TEN DAY TEMPORARY
REGISTRATION PLATE (READOPTION WITHOUT
SUBSTANTIVE CHANGES)

19A NCAC 03C .0427 PERSONALIZED PLATES
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0428 APPLICATION FOR
REPLACEMENT LICENSE OR VALIDATION TICKERS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0429 LICENSE PLATE TRANSFER
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0431 PURCHASE OF OUT-OF-STATE
VEHICLES: REMOVAL OF PLATES (READOPTION
WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0432 TRANSPORTER'S
REGISTRATION (READOPTION WITHOUT
SUBSTANTIVE CHANGES)

19A NCAC 03C .0433 DRIVEAWAY REGISTRATION
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0436 HIGHWAY USE TAX
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

**SECTION .0500 - MOTOR VEHICLES OPERATED FOR
HIRE**

19A NCAC 03C .0501 FOR HIRE OPERATIONS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03C .0520 FOR HIRE OPERATIONS
DEFINED (READOPTION WITHOUT SUBSTANTIVE
CHANGES)

19A NCAC 03C .0521 TAXICAB (READOPTION
WITHOUT SUBSTANTIVE CHANGES)

**SUBCHAPTER 03E - INTERNATIONAL
REGISTRATION PLAN (IRP) SECTION**

**SECTION .0400 - INTERNATIONAL REGISTRATION
PLAN**

19A NCAC 03E .0401 GENERAL INFORMATION
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

**SUBCHAPTER 03F - COLLISION REPORTS/GENERAL
SERVICES SECTION**

**SECTION .0200 - STATISTICAL DATA ASSEMBLED
AND PUBLISHED**

19A NCAC 03F .0201 TRAFFIC ACCIDENT
SUMMARY (READOPTION WITHOUT SUBSTANTIVE
CHANGES)

19A NCAC 03F .0202 FATAL ACCIDENT REPORTS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 03F .0203 SPECIAL HOLIDAY REPORT
(READOPTION WITHOUT SUBSTANTIVE CHANGES)

**SECTION .0600 - SAFETY AND FINANCIAL
RESPONSIBILITY**

19A NCAC 03F .0602 ADMINISTRATIVE FINANCIAL
RESPONSIBILITY HEARINGS (READOPTION
WITHOUT SUBSTANTIVE CHANGES)

**SUBCHAPTER 03G - SCHOOL BUS AND TRAFFIC
SAFETY SECTION**

**SECTION .0200 - SCHOOL BUS DRIVER TRAINING
AND CERTIFICATION**

**19A NCAC 03G .0208 TRANSFER OF
CERTIFICATION (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

19A NCAC 03G .0212 DATE OF CANCELLATION

Authority G.S. 20-39(b); 20-218.

SECTION .0300 - RESTRICTED INSTRUCTION PERMIT

**19A NCAC 03G .0301 DRIVER EDUCATION PERMIT
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SUBCHAPTER 03I - RULES AND REGULATIONS
GOVERNING THE LICENSING OF COMMERCIAL
DRIVER EDUCATION TRAINING SCHOOLS AND
INSTRUCTORS**

**SECTION .0300 – SCHOOL LOCATION: PHYSICAL
FACILITIES: AND COURSES OF INSTRUCTION**

**19A NCAC 03I .0303 CLASSROOM FACILITY
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03I .0307 COURSES OF INSTRUCTION
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0400 – MOTOR VEHICLES USED IN
INSTRUCTION**

**19A NCAC 03I .0402 REGISTRATION: INSURANCE:
INSPECTION (READOPTION WITHOUT
SUBSTANTIVE CHANGES)**

**SECTION 0500 – REQUIREMENTS AND
APPLICATIONS FOR DRIVER TRAINING
INSTRUCTOR**

**19A NCAC 03I .0501 REQUIREMENTS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SUBCHAPTER 03J - RULES AND REGULATIONS
GOVERNING THE LICENSING OF COMMERCIAL
TRUCK DRIVER TRAINING SCHOOLS AND
INSTRUCTORS**

**SECTION .0200 - REQUIREMENTS AND
APPLICATIONS FOR COMMERCIAL TRUCK DRIVER
TRAINING SCHOOLS**

**19A NCAC 03J .0201 REQUIREMENTS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03J .0204 DUPLICATE COPIES
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0300 - SCHOOL LOCATION: PHYSICAL
FACILITIES: AND COURSES OF INSTRUCTION**

**19A NCAC 03J .0303 CLASSROOM FACILITY
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03J .0305 INSPECTIONS (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03J .0306 COURSE OF INSTRUCTION
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03J .0307 STUDENT REQUIREMENTS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0400 - MOTOR VEHICLES USED IN
INSTRUCTION**

**19A NCAC 03J .0402 REGISTRATION: INSURANCE:
INSPECTION (READOPTION WITHOUT SUBSTANTIVE
CHANGES)**

SECTION .0600 – CONTRACTS

**19A NCAC 03J .0601 REQUIREMENTS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND
COMMISSIONS**

**CHAPTER 39 - ON-SITE WASTEWATER
CONTRACTORS AND INSPECTORS CERTIFICATION
BOARD**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Onsite Wastewater Contractors and Inspectors Certification Board intends to adopt the rules cited as 21 NCAC 39 .0904, .1101-.1104, and amend the rules cited as 21 NCAC 39 .0101, .0102, .0201, .0301, .0401, .0402, .0404, .0405, .0601, .0602, .0604, .0605, .0701, .0801, .1001, .1002, and repeal the rule cited as 21 NCAC 39 .0603.

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

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

Proposed Effective Date: *June 1, 2021*

Public Hearing:

Date: *February 1, 2021*

Time: *10:00 a.m.*

Location: *Emeralds View, 1426 Peter Mabe Road, Danbury, NC 27016*

Reason for Proposed Action:

- 21 NCAC 39 .0101 Provide definitions related to on-site wastewater evaluators.*
- 21 NCAC 39 .0102 Revise rule to include evaluators.*
- 21 NCAC 39 .0201 Include application requirements for evaluators.*
- 21 NCAC 39 .0301 Add evaluator application fees authorized by statute.*
- 21 NCAC 39 .0401 Add evaluator examination requirements.*
- 21 NCAC 39 .0402 Add evaluators to those subject to examination.*
- 21 NCAC 39 .0404 Add evaluators to those receiving certification numbers and a seal.*
- 21 NCAC 39 .0405 Add evaluators to the military-trained applicant rule.*
- 21 NCAC 39 .0601 Add evaluators to the continuing education rule.*
- 21 NCAC 39 .0602 Add evaluators to the continuing education rule.*
- 21 NCAC 39 .0604 Add evaluators to the recordkeeping rule.*
- 21 NCAC 39 .0605 Clarify the process and add evaluators to the continuing education/extension of time rule.*
- 21 NCAC 39 .0701 Add evaluators to the disciplinary action rule.*
- 21 NCAC 39 .0801 Add evaluators to the code of ethics rule.*
- 21 NCAC 39 .0904 Give the Board authority to waive rules when requested.*
- 21 NCAC 39 .1001 Add a definition related to evaluators.*
- 21 NCAC 39 .1002 Update the rule regarding when evaluators issue a permit for an on-site wastewater system.*
- 21 NCAC 39 .1101 Provide definitions related to standards of practice.*
- 21 NCAC 39 .1102 Provide general requirements for evaluators.*
- 21 NCAC 39 .1103 Provide general exclusions for evaluators.*
- 21 NCAC 39 .1104 Identify required documents for evaluators.*

Comments may be submitted to: *Connie S. Stephens, NC Onsite Wastewater Contractors and Inspectors Certification Board, PO Box 132, Lawsonville, NC 27022; phone (336) 202-3126; email csstephens@ncowcib.info*

Comment period ends: *March 16, 2021*

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 (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 39 - ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD

SECTION .0100 - DUTIES AND DEFINITIONS

21 NCAC 39 .0101 DEFINITIONS

In addition to the terms defined in Article 5 of Chapter 90A of the General Statutes, the following definitions apply to the ~~rules~~ Rules in this Chapter:

- ~~(1) "Ancillary" means an on-site wastewater system that is included in a primary construction project.~~
- (1) "Authorized On-Site Wastewater Evaluator" means the same as defined in G.S. 130A-336.2(a); hereafter referred to as "evaluator".
- (2) "Building being constructed" means primary construction of a site built single family residence, constructed pursuant to Article 1, Chapter 87 of the N.C. General Statutes.
- (3) "College course" means a semester unit or quarter unit -based instruction given at a college or university that is relevant to on-site wastewater contractor or inspector activities, and is pre-approved by the board as set out in Rule .0603 of this Chapter.
- (4) "Course or Activity" means any course or activity with a clear purpose and objective that will maintain, improve, or expand skills and knowledge relevant to the practice of on-site wastewater contractor or inspector activities and pre-approved by the board, in accordance with G.S. 90A-79(b) and Rule .0602 of this Section.
- (5) "Evaluation and findings" mean, at a minimum, the information required in G.S. 130A-335(e).
- (6) "Licensed soil scientist" means an individual licensed in accordance with G.S. 89F.
- (7) "Notice of Intent to Construct" means, at a minimum, that information required by G.S. 130A-336.2(b) and is provided as a form by the Department of Health and Human Services.
- ~~(5)(8)~~ "Personally supervise" means to direct and control all on-site wastewater contractor or

- inspector activities during the time those activities are being conducted.
- (6)(9) "Professional development hour" or "PDH" means an hour of instruction or presentation and is the basic unit of credit for all courses or activities related to satisfying continuing education requirements.
- (7)(10) "Repair" means construction activity or alteration to an existing on-site wastewater system that is necessary to comply with a Construction Authorization for a repair permit issued by the Local Health Department.

- Department or through the Authorized On-Site Wastewater Evaluator option pursuant to G.S. 130A-336.2.
- (11) "Seal" means the seal required by G.S. 130A-336.2(d)(2) for certified Authorized On-Site Wastewater Evaluator.
- (12) "Subordinate" means the same as defined in G.S. 89F-3(10).
- (8) "Wastewater Treatment Facility" as defined in G.S. 90A-71(8).

Authority G.S. 90A-71; 90A-72; 90A-74; 130A-336.2.

21 NCAC 39 .0102 TYPES OF CERTIFICATION

(a) The following levels of certification for certified on-site wastewater contractors are: are as follows:

Level	Description of Activities
I	Single Septic Tank, Conventional (Gravel) Gravity System
II	Grade I, plus: Multiple tanks, Grease Traps, Single Pump or Single Siphon, Fill Systems, Sand Lined Trench, and any approved gravity or single pump dispersal system not specified in Grade Level III or Grade Level IV
III	Grade II, plus: Dual pumps or Dual Siphons, Systems of >1500 gpd to <3000 gpd, Low-Pressure Dispersal, Flow Equalization, and any system requiring ground water lowering with a pump
IV	Grade III, plus: Systems >3000 gpd, Multiple Off-Site Systems, Industrial Process Wastewater, Residential Wastewater Treatment Systems (RWTS), TS-I and TS-II System, Drip Dispersal Systems, and Wastewater Reuse Systems or any Pretreatment Component.

(b) Inspectors ~~shall be~~ are certified to inspect all ~~grade levels of~~ on-site wastewater systems referenced in Paragraph (a).

(c) Evaluators shall be certified pursuant to G.S. 130A-335(e).

Authority G.S. 90A-72; 90A-74; 90A-77; 130A-335(e); 130A-336.2.

SECTION .0200 - CERTIFICATION OF ON-SITE WASTEWATER CONTRACTOR OR INSPECTORS CONTRACTORS, INSPECTORS, OR AUTHORIZED ON-SITE WASTEWATER EVALUATORS

21 NCAC 39 .0201 APPLICATION REQUIREMENTS FOR CERTIFICATION

(a) Applications for certification ~~or renewal of certification~~ shall be submitted ~~annually~~ on forms provided by the Board. Applications shall include:

- (1) Applications for a contractor or inspector shall include:
- (1)(A) Applicant's name;
 - (2)(B) Business Company address;
 - (3)(C) Phone number;
 - (4)(D) Date of birth;
 - (5)(E) Email address, if available;
 - (6)(F) Business Company or employer name and address;
 - (7)(G) Business Company phone number;
 - (8)(H) County where company is located;
 - (9)(I) If the certification is for contractor or inspector;

- (40)(J) The contractor certification level requested;
- (41)(K) Certification number, if renewal;
- (42)(L) Required certification fee or annual fee for level of certification;
- (43)(M) Dates, locations, hours, and providers of required education and training; ~~and~~
- (44)(N) Applicant ~~signature.~~ signature; and Social Security Number.
- (2) Applications for evaluator shall include:
 - (A) Applicant's name;
 - (B) Company address;
 - (C) Phone number;
 - (D) Date of birth;
 - (E) Email address, if available;
 - (F) Company or employer name and address;
 - (G) Company phone number;
 - (H) County where company is located;
 - (I) Required certification fee;
 - (J) Dates, locations, hours, providers, and completion certificate that includes the required Board-approved evaluator course;

- (K) Copy of current Errors and Omission Policy declaration page, with minimum coverage of one million dollars (\$1,000,000.00);
- (L) Copy of current General Liability Policy declarations page, with minimum coverage of one million dollars (\$1,000,000.00);
- (M) Copy of current Soil Scientist License pursuant to Chapter 89F;
- (N) Verification of minimum of five years' experience in on-site wastewater soil science;
- (O) Applicant signature; and
- (P) Social Security Number.

(b) Applications for renewal shall be submitted annually on forms provided by the Board and shall include:

- (1) Certification holder's name;
- (2) Company name;
- (3) Company address;
- (4) Certification number(s)
- (5) Copy of required continuing education certificate(s);
- (6) Annual renewal fee;
- (7) Current copies of all required insurance declarations pages;
- (8) Evaluators will also submit current copy of LSS license; and
- (9) Applicant signature.

~~(b)(c)~~ The Board shall determine whether an application is complete. Incomplete applications and applications not accompanied by an appropriate fee shall not be processed and shall be returned to the applicant.

~~(e)(d)~~ The Board shall not schedule an applicant to take the required examination until their application has been reviewed and approved and the applicant has met all other conditions for certification, which, for new applicants includes an 18 hour new installer course. Upon approval of an application pursuant to the requirements of this Chapter, the Board shall schedule an applicant to take the required examination.

~~(d)(e)~~ The Board may request verification of education and training.

~~(e)(f)~~ All certified ~~contractors or inspectors~~ contractors, inspectors, or evaluators shall submit a renewal application by November 15 of each year. If a renewal applicant's renewal application is not received by the Board until after December 31 of that calendar year, the renewal applicant shall pay a late fee of twenty-five dollars (\$25.00) in accordance with G.S. 90A-78(b). If a renewal application is received by the Board after December 31, it will not be processed until the late fee is received.

~~(f)(g)~~ If the renewal application is postmarked more than 90 days after December 31, the person must meet the requirements for re-certification.

~~(g)(h)~~ Applications for new certifications requiring testing pursuant to G.S. 90A-77 must be received by the Board at least 15 days prior to the scheduled date of the examination.

~~(h)(i)~~ Applications for certification level upgrades must be received at least Any person requesting a certification level upgrade shall submit a request in writing and pay the difference

in fees. Requests must be received no less than 24 hours prior to the scheduled date of the examination.

~~(i)(j)~~ In cases where the applicant is ineligible for examination, the applicant shall be notified by letter and advised of the reason for ineligibility.

~~(j)(k)~~ Applicants who have supplied false information must wait 12 months before resubmitting an application for certification or renewal and must forfeit all fees paid.

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 130A-336.2.

**SECTION .0300 - ONSITE WASTEWATER
CONTRACTOR OR INSPECTOR CONTRACTOR,
INSPECTOR, OR EVALUATOR FEES**

21 NCAC 39 .0301 SCHEDULE OF CERTIFICATION FEES

(a) Application fees ~~are:~~ are as follows:

Grade Level	Initial Fee	Renewal Fee
I	\$150.00	\$75.00
II	\$200.00	\$75.00
III	\$250.00	\$75.00
IV	\$300.00	\$75.00
Inspector Certificate	\$200.00	\$75.00
Combination Contractor Certification Grade Level and Inspector Certificate	Sum of individual fees	\$125.00
On-site Wastewater Evaluator	\$300.00	\$100.00

(b) Application fees shall not be pro-rated.

(c) The fee for re-instatement of a revoked or suspended certification is five hundred dollars (\$500.00).

(d) The fee for certificate replacement or duplication is twenty-five dollars (\$25.00).

(e) The fee for late renewal is twenty-five dollars (\$25.00). This fee is charged if the renewal request is received after December 31.

(f) The fee for each returned check is twenty-five dollars (\$25.00).

(g) All fees are non-refundable.

Authority G.S. 25-3-506; 90A-72(a); 90A-74; 90A-75; 90A-77(f); 90A-78(b); 130A-336.2.

SECTION .0400 - CERTIFICATION BY EXAMINATION

**21 NCAC 39 .0401 ON-SITE WASTEWATER
CONTRACTOR OR INSPECTOR CONTRACTOR,
INSPECTOR, OR EVALUATOR EXAMINATIONS**

(a) On-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator examinations shall be comprehensive examinations that are standardized statewide.

(b) The exam questions shall be ~~based on the grade levels.~~ specific to the grade level being sought by the applicant.

(c) ~~Combination certification shall require taking and passing the individual component exams.~~ Any applicant seeking a

combination certification shall take and pass each exam specific to the grade level certifications being sought.

~~(d) A grade on the examination of 70 percent or more shall be passing. Each applicant shall obtain a passing score of at least 70 percent. Results of the examination shall be reported as either passing "pass" or failing "fail."~~

Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2.

21 NCAC 39 .0402 TIME AND PLACE OF EXAMINATION

(a) The Board may schedule on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator examinations in addition to the ~~statutorily~~ statutorily required examinations pursuant to G.S. 90A-77, given at least three times a year, at least once in the Eastern, Central, and Western regions of the state. Additional examinations may be scheduled by the Board if the Board determines that the three scheduled examinations are insufficient due to the number of applicants for examination or the time between examinations. Information regarding the date, time, and place shall be made available on the Board's web site or upon request.

(b) The Board shall notify each applicant filing for examination in writing of the date, ~~time~~ time, and place of the examination.

Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2.

21 NCAC 39 .0404 ISSUANCE OF CERTIFICATES

(a) After an examination grading, the applicant shall be informed in writing by the Board or its authorized representatives as to the results of their examination. The Board shall not respond to oral or other requests for exam results.

(b) Upon successful completion of the examination and all requirements for certification the applicant shall be issued a certification card.

(c) Questions by the applicant concerning the examination must be made in writing to the Board within six months of the notification date.

(d) An applicant who fails to pass an examination shall be entitled to and notified of the privilege to review his examination in the presence of one or more Board members or its authorized representative at a location approved by the Board.

(e) Each certified on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator shall be assigned a unique certification number. Certification numbers are not transferable and shall not be used by another onsite wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator.

(f) Upon successful completion of the examination, each evaluator shall be issued a seal.

Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2.

SECTION .0400 - CERTIFICATION BY EXAMINATION

21 NCAC 39 .0405 LICENSURE FOR MILITARY-TRAINED APPLICANT; LICENSURE FOR MILITARY SPOUSE

(a) ~~Licensure for a military trained applicant.~~ Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military-

trained applicant, the Board shall issue a license upon the applicant's satisfying the following conditions:

- (1) Submit a complete Application for Certification;
- (2) Submit a license fee in accordance with G.S. 90A-27;
- (3) Provide documentation to satisfy conditions set out in G.S. 93B-15.1(a)(1) and (2); ~~and~~
- (4) For evaluator, provide documentation from the N.C. Board for Licensing of Soil Scientists that requirements set out in G.S. 89F have been satisfied; and
- ~~(4)~~(5) Provide documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was ~~committed,~~ committed.

(b) ~~Licensure for a military spouse.~~ Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military spouse, the Board shall issue a license upon the applicant's satisfying the following conditions:

- (1) Submit a complete Application for Certification;
- (2) Submit a license fee in accordance with G.S. 90A-27;
- (3) Submit documentation demonstrating that the applicant is married to an active member of the U.S. military;
- (4) Provide documentation to satisfy conditions set out in G.S. 93B-15.1(b)(1) and (2); ~~and~~
- (5) For evaluator, provide documentation from the N.C. Board for Licensing of Soil Scientists that requirements set out in G.S. 89F have been satisfied; and
- ~~(5)~~(6) Provide documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed.

Authority: G.S. 90A-27; 90A-74; 93B-15.1; 130A-336.2.

SECTION .0600 - CONTINUING EDUCATION REQUIREMENTS

21 NCAC 39 .0601 REQUIREMENTS

(a) Every certified on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator shall obtain Professional Development Hours (PDH) units during the renewal period as described in the following table:

Level	Annual PDH Units Required
I	3
II	3
III	6
IV	6
Inspector	6

Combination Contractor Grade Level and Inspector	6
Evaluator	<u>12</u>

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 130A-336.2.

21 NCAC 39 .0603 DETERMINATION OF CREDIT

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79.

21 NCAC 39 .0604 RECORDKEEPING

~~The responsibility of maintaining records to be used to support credits claimed is the responsibility of the contractor. Records required include; Each contractor, inspector, or evaluator shall maintain records of any completed PDH courses including the following:~~

- (1) A log showing the type of activity claimed, sponsoring organization, location, duration, instructors or ~~speakers name~~ speaker's name, and PDH credits earned; or
- (2) Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance.

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 130A-336.2.

21 NCAC 39 .0605 SPECIAL PROVISIONS FOR CONTINUING EDUCATION EXTENSION OF TIME

~~(a) An on-site wastewater contractor or inspector serving on active duty in the uniformed services of the United States for a period of time exceeding 180 consecutive days in a year shall be granted an extension of time in which to obtain the professional development hours required during that renewal period. The extension shall allow the requesting on-site wastewater contractor or inspector 12 months from the date the extension is granted to correct the deficiency in professional development hours (PDH) for the renewal period in issue. The Board shall grant an on-site wastewater contractor, inspector, or evaluator an extension of time to complete continuing education (CE) requirements during a period of service in the Armed Forces of the United States upon submission of the following to the Board:~~

- (1) written request for an extensions; and
- (2) documentation that the requestor is serving in the Armed Forces of the United States and is eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2.

~~(b) If an on-site wastewater contractor or inspector experiences a long-term disability or illness he may petition the board for an extension of time to obtain professional development hours required during that renewal period. The petition shall provide documentation including verification from a medical doctor of illness, with proof of disability. The extension of time shall not exceed 90 days into the following renewal year. The Board shall grant an on-site wastewater contractor, inspector, or evaluator an extension of time to obtain CE requirements if he or she has a disability or illness that prevents him or her from complying with CE requirements. In order to receive the waiver, the requestor shall provide the Board with the following:~~

- (1) written request for waiver; and
- (2) documentation that describes the disability or illness and explains how the disability or illness

(b) The certified on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator shall select courses and activities that have been approved as set out in ~~21 NCAC 39 .0602. Rule .0602 of this Chapter.~~

(c) Professional Development Hours (PDH) shall be accepted by the Board for approved courses pursuant to ~~21 NCAC 39 .0603. Rule .0603 of this Chapter.~~ Hours for all other courses shall be submitted by providers to the Board for approval pursuant to ~~21 NCAC 39 .0602. Rule .0602 of this Chapter.~~ If not approved, no PDH shall be granted for the course.

~~(d) The class provider or authorized representative of the class provider shall certify that each class attendee was present for at least 85 percent of the class. Each on-site wastewater contractor, inspector, or evaluator shall attend at least 85 percent of the class in order to receive credit. Any attendee present for less time shall not receive credit for the class. The class provider or authorized representative shall certify that each class attendee meets the requirement of this Paragraph.~~

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 130A-336.2.

21 NCAC 39 .0602 APPROVAL OF CONTINUING EDUCATION COURSES

(a) All continuing education courses shall be approved by the Board before PDH can be granted.

(b) All continuing education courses shall be approved on an annual basis.

(c) The Board shall approve courses in accordance with G.S. 90A-77 that instruct on on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator activities and the use of on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator equipment, products, and materials. The Board shall determine that courses and activities contain a clear purpose and objective and result in the maintenance, improvement, or expansion of skills and knowledge related to the practice of on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator activities. Providers may request approval of courses or activities from the Board by obtaining and completing a form available on the Board's website (www.ncowcib.info) or by a written request to the Board that provides the following information:

- (1) Course content;
- (2) Course schedule;
- (3) Level of instruction provided (Level 1, 2, 3, 4, Inspector, or level 4/Inspector); ~~Combination Contractor Grade Level and Inspector;~~ Inspector, or evaluator;
- (4) Qualifications of instructors (including both education and experience); and
- (5) Materials provided, field experiences, and other activities available in connection with the course(s).

prevents the contractor, inspector, or evaluator from complying with the Board's CE requirements. Documentation includes a letter from a licensed physician, nurse practitioner (NP), or physician assistant (PA).

(c) Where on a case-by-case basis the Board determines that due to an undue hardship (such as natural disaster or illness of family member) the contractor, inspector, or evaluator could not reasonably be expected to comply with the Board's CE requirements, the contractor, inspector, or evaluator shall be granted an extension of time in which to obtain the required CE credits. To be considered for an extension of time, a requestor shall submit the following:

- (1) written request for extension; and
- (2) documentation that supports the reason for the extension.

(d) The Board shall grant a waiver of CE requirements upon submission of documentation that a contractor, inspector, or evaluator is in active duty while serving in the Armed Forces and is or has been deployed for at least eight months during the twelve-month period during which CE credits were required.

(e) An extension granted under Paragraphs (b) or (c) of this Rule shall not exceed one year. Prior to the expiration of the one year extension of time, a contractor, inspector, or evaluator may request an additional extension in accordance with this Rule. Except as set out in Paragraph (a) of this Rule, the Board shall grant no more than two consecutive extensions.

Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 93B-15; 130A-336.2.

SECTION .0700 - PROCEDURES FOR DISCIPLINARY ACTIONS

21 NCAC 39 .0701 REVOCATION, OR SUSPENSION OF CERTIFICATION

(a) The Board may revoke or suspend the certification of an on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator in accordance with the provisions of G.S. 90A-80, 90A-81 and Article 3A of Chapter 150B of the NC General Statutes. For holders of the Combination Contractor Grade Level and Inspector certifications, the Board may revoke or suspend either or both certifications.

(b) ~~A~~ Following a revocation or suspension, a certificate holder ~~may~~ shall relinquish a his or her certificate or seal by submission to the Board of the original certificate or seal and a notarized statement of relinquishment.

(c) The Board may restrict the certificate of an on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator. Written notice of the restriction shall be delivered in accordance with the provisions of service in G.S. 150B-42. A copy of the letter shall be kept in the on-site wastewater ~~contractor or inspector's~~ contractor, inspector, or evaluator's file. The on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator shall be given the opportunity to put a letter of rebuttal into the ~~file~~ file with the Board. The letter shall be received by the Board within 30 days of receipt of the written notice.

Authority G.S. 90A-72; 90A-74; 90A-80; 90A-81; 130A-336.2.

SECTION .0800 – ONSITE WASTEWATER CONTRACTOR OR INSPECTORS CONTRACTOR, INSPECTOR, OR EVALUATOR CODE OF ETHICS

21 NCAC 39 .0801 CODE OF ETHICS

(a) ~~Contractors and inspectors~~ Contractors, inspectors, and evaluators shall at all times recognize their primary obligation is to protect the public in the performance of their professional duties and shall conduct the practice of those duties in a manner that protects the public health, safety and welfare.

(b) Opinions expressed by ~~contractors and inspectors~~ contractors, inspectors, or evaluators in the discharge of their duties shall only be based on their education and experience.

(c) ~~Neither a contractor nor an inspector~~ No contractor, inspector, or evaluator shall disclose any information about the results of an inspection or evaluation without the approval of the client for whom the inspection or evaluation was performed, or the client's designated representative, except as required by law.

(d) No ~~contractor or inspector~~ contractor, inspector, or evaluator shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.

(e) No ~~contractor or inspector~~ contractor, inspector, or evaluator shall accept or offer commissions or allowances, directly or indirectly, from or to other parties dealing with the client in connection with work for which the licensee is responsible.

(f) No ~~contractor or inspector~~ contractor, inspector, or evaluator shall provide an appraisal nor express an opinion of the market value of the inspected property during an inspection or in the inspection report.

(g) Before the execution of a contract to perform an on-site wastewater system inspection, an inspector shall disclose to the client any interest the inspector has in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the inspector may be called upon to perform.

(h) Before the execution of a contract to perform an on-site wastewater system installation, a contractor shall disclose to the client any interest a contractor has in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the installation work that the contractor may be called upon to perform.

(i) Before the execution of a contract to perform an on-site wastewater system evaluation, an evaluator shall disclose to the client any interest the evaluator has in a business that may affect the client. No licensee shall allow his or her interest in any business or any technology to affect the quality or results of the evaluation work that the evaluator may be called upon to perform. Pursuant to G.S. 130A-336.2(d)(1), the evaluator shall not form a direct business relationship with any technology that may result in conflict of interest.

~~(j)(i)~~ Contractors shall not knowingly or willfully install a non-permitted system.

~~(j)(k)~~ Contractors shall not knowingly or willfully install a system or any part of a system other than what is specified in the permit by the local health department. permit.

~~(k)(l)~~ Contractors and inspectors Contractors, inspectors, and evaluators shall not engage in false or misleading advertising,

documentation, and reporting or otherwise misrepresent any matters to the public.

~~(4)(m) Contractors and inspectors~~ Contractors, inspectors, and evaluators shall discharge their duties in accordance with Article 5 of Chapter 90A of the North Carolina General Statutes and the rules of the Board.

~~(m)(n)~~ No inspector shall subcontract with another inspector for an on-site wastewater system inspection without the knowledge and signed consent of the client.

~~(n)(o)~~ The contractor of record shall be the responsible party for the an on-site wastewater system installation or repair. repair that is permitted through the local health department.

(p) The evaluator of record shall be responsible for the work conducted by a subordinate.

(q) The evaluator shall not perform any of the functions performed by a professional engineer for engineered wastewater systems described in G.S. 130A-336.1.

(r) Evaluators who fail to comply with G.S. 89F-19 and have their soil scientist license revoked or suspended shall also have their authorization as an evaluator revoked or suspended.

(s) Employees of a local health department or DHHS shall not perform the duties of an Authorized Onsite Wastewater Evaluator, Contractors, or Inspector.

(t) Evaluators shall not perform duties of contractors or inspectors on any system on which they are the evaluator.

Authority G.S. 89F-19; 90A-72; 90A-74; 130A-336.2.

SECTION .0900 – RULEMAKING PROCEDURES

21 NCAC 39 .0904 WAIVER OR EXTENSION

The Board may waive or extend any rule in this Chapter that is not statutorily required if a certificate holder submits a written request. Factors the Board shall use in determining whether to grant the waiver or extension are:

- (1) degree of disruption to the Board;
- (2) cost to the Board;
- (3) degree of benefit to the public;
- (4) whether the requesting party had control over the circumstances that required the requested waiver or extension;
- (5) notice to and opposition by the public;
- (6) need for the waiver or extension; and
- (7) previous requests for waivers or extensions submitted from the requesting party.

Authority G.S. 90A-74; 150B-19(6).

SECTION .1000 - NC ON-SITE WASTEWATER INSPECTOR STANDARDS OF PRACTICE

21 NCAC 39 .1001 DEFINITIONS

As used in this Section:

- (1) "Automatic safety controls" means devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, high water, fire, freezing, or other unsafe conditions.

- (2) "Component" means a readily accessible and observable part of an on-site wastewater system.
- (3) "Cross connection" means any physical connection or arrangement between potable water and the on-site wastewater system or any other source of contamination.
- (4) "Dangerous or adverse situations" means situations that pose a threat of injury to the inspector, or those situations that require the use of special protective clothing or safety equipment, such as personal protection equipment.
- (5) "Describe" means a written report of a condition found within the system or any observed component of the inspected system.
- (6) "Dismantle" means to take apart or remove any component, device or piece of equipment that is bolted, screwed, or fastened by other means and that would not be taken apart or removed by a homeowner or operator in the course of normal household maintenance.
- (7) "Enter" means to go into an area to inspect all readily accessible, readily openable, and readily visible components.
- (8) "Hydraulic Load Test" means the introduction of water or waste water into a system for the purposes of mimicking the system's peak flows.
- (9) "Inflow" means extraneous water directly entering a component, such as via a sump pump, foundation drain, condensate line, or infiltration.
- (10) "Normal operating controls" means certified operator or homeowner-operated devices.
- (11) "Normal wear and tear" means superficial blemishes or defects that do not interfere with the functionality of the component or system.
- (12) "Operate" means to cause systems or equipment to function.
- (13) "Readily accessible" means approachable or enterable for inspection without the risk of damage to any property or alteration of the accessible space, equipment, or opening.
- (14) "Readily openable access panel" means a panel provided for homeowner or certified operator maintenance and operation that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed for inspection. This definition is limited to those wastewater system components not blocked by stored items, furniture, building components or landscaping.
- (15) "Readily visible" means seen by using natural or artificial light without the use of equipment or tools other than a probe, ~~flashlight~~ flashlight, or mirror.
- (16) "Roof drainage systems" means gutters, downspouts, leaders, splash blocks, and similar

- parts used to carry water off a roof and away from a building.
- (17) "Shut down" means a condition or conditions wherein a piece of equipment or system cannot be operated by the device or control that a homeowner should normally use to operate it. If its safety switch or circuit breaker is in the "off" position, or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.
- (18) "Statement of responsibility" means a signed and dated document, from the contractor to the system owner, that acknowledges the requirements of the onsite wastewater system specified by the evaluator.
- ~~(18)~~(19) "Structural component" means a wastewater system component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads), such as a control panel support, septic tank, D-box, or manifold.

Authority G.S. 90A-71; 90A-74: 130A-336.2.

21 NCAC 39 .1002 GENERAL REQUIREMENTS FOR CONTRACTORS AND INSPECTORS

(a) Inspectors shall:

- (1) Provide a written contract, signed by the client or client's representative, before the on-site wastewater system inspection is performed that:
 - ~~(a)~~(A) States that the on-site wastewater system inspection is conducted in accordance with Rules .1004, .1005, and .1006 of this Section; and
 - ~~(b)~~(B) Describes what services shall be provided and their ~~cost~~ cost;
- (2) Obtain written permission from the owner or owner's representative to perform the ~~inspection~~ inspection;
- (3) Inspect readily operable and accessible installed systems and components listed in ~~this Section~~ Rule .1005 of this Section;
- (4) Submit a written report to the client or client representative within 10 business days of the inspection that:
 - ~~(a)~~(A) Describes those systems and components required to be described in Rules .1005 through .1006 of this Section;
 - ~~(b)~~(B) States which systems and components designated for inspection in this Section have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting. Failure to locate the system or components for inspection or "could not locate" shall not be the

same as "not visible." If the system or component is not located, the written report shall state the failure to locate the system or components for inspection or "could not locate;"

- ~~(c)~~(C) States any systems or components inspected that do not function as intended or harm the wastewater treatment system;
- ~~(d)~~(D) States whether the condition reported requires repair or subsequent observation, or warrants further evaluation by the local health department. The statements shall describe the component or system and how the condition is defective, explain the consequences of the condition, and refer the recipient to the local health department or a certified on-site wastewater contractor; and
- ~~(e)~~(E) States the name, license number, and signature of the certified ~~inspector~~ inspector;

(5) Maintain records for a period of seven years.

(b) Contractors that contract with an owner of a system permitted by an evaluator in accordance with G.S. 130A-336.2 shall:

- (1) Submit to the evaluator and Board the insurance declaration page verifying errors and omissions, liability, or other coverage, as appropriate for the system designed, prior to commencing installation;
- (2) Be responsible for all aspects of the construction and installation of the wastewater system and its components, including adherence to specifications and any special inspections that are prepared, signed, and sealed by the evaluator; and
- (3) Submit a dated and signed statement of responsibility to the owner of the wastewater system, prior to commencement of work.

Authority G.S. 90A-71; 90A-72; 90A-74; 130A-336.2.

SECTION .1100 - NC ON-SITE WASTEWATER EVALUATOR STANDARDS OF PRACTICE

21 NCAC 39 .1101 DEFINITIONS

As used in this Section:

- (1) "Accepted wastewater dispersal system" means as defined in G.S. 130A-343.
- (2) "Authorized inspector" or "Independent inspector" means an individual employed or contracted by an evaluator to observe and direct the construction of the wastewater system designed, planned, and specified by the evaluator.
- (3) "Notice of intent to construct" means the form developed by DHHS pursuant to G.S. 130A-336.2(b).

- (4) "Special inspection" means any continuous or intermittent inspection or visitation performed by the evaluator at the construction site on behalf of the owner.

- (11) Maintain records for a period of seven years. This shall include a signed and dated copy of the operation and management program that was provided to the system owner and all inspection reports.

Authority G.S. 90A-74; 130A-336.2.

- (b) Evaluators may assist in the construction, siting, relocation, or repair of any wastewater system described in G.S. 130A-343.

Authority G.S. 130A-336.2.

21 NCAC 39 .1102 GENERAL REQUIREMENTS FOR EVALUATORS

(a) Evaluators shall:

- (1) Be liable for any errors or omissions made by independent inspectors they employ or contract with.
- (2) Prepare signed and sealed soil and site evaluations, specifications, plans, and reports for the site layout construction, operation, and maintenance of a non-engineered wastewater system.
- (3) Provide a "notice of intent to construct" to the owner of a proposed wastewater system, so the owner can submit it to the local health department that has jurisdiction over the location of the proposed wastewater system.
- (4) Prepare a signed and sealed statement of special inspections that includes the following items:
 - (A) The materials, systems, components, and work subject to special inspections and testing;
 - (B) The type, frequency, and extent of each special inspection and each test.;
- (5) Notify the owner if the system will require the owner to enter into a contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes.
- (6) Assist the owner in the selection of an on-site wastewater system contractor, who shall be under contractual obligation to the owner of the system and have sufficient errors and omissions, liability, or other insurance for the system constructed.
- (7) Permit the use of an accepted wastewater dispersal system in lieu of a conventional system, in accordance with the accepted system approval.
- (8) Make periodic visits to the site to observe the progress and quality of the construction.
- (9) Hold a post-construction conference with the system owner, the contractor, the water pollution control system operator, if any, and representatives from the local health department. This shall include start-up and any required verification of system components.
- (10) Provide copies of all construction and inspection reports, signed by either the authorized inspector or the evaluator, to the owner and the contractor. Copies shall also be included in the submittal package to the local health department.

21 NCAC 39 .1103 GENERAL EXCLUSIONS FOR EVALUATORS

Evaluators shall not:

- (1) Offer or perform any act or service contrary to Article 5 of G.S. 90A, G.S. 130A-336.2, or the rules of this Chapter.
- (2) Form a direct business relationship with any technology that may result in a conflict of interest.
- (3) Perform any of the functions performed by a professional engineer for engineered wastewater systems described in G.S. 130A-336.1
- (4) Offer or perform engineering, architectural, plumbing, electrical, pesticide or any other job function requiring an occupational license in the jurisdiction where the evaluation, inspection, installation, or repair is taking place, unless the evaluator holds a valid occupational license in that field, in which case the evaluator shall inform the client that the evaluator is so licensed.

Authority G.S. 130A-336.2.

21 NCAC 39 .1104 REQUIRED DOCUMENTS FOR EVALUATORS

Evaluators shall provide the owner with the following documents at the post-construction conference:

- (1) a signed and sealed copy of reports on soil conditions and site features, layouts, drawings, specifications, justification on any proposed design daily flow reductions, and any special inspection reports or corrections made during the construction of the system;
- (2) the owner's operation and management program established for the specific wastewater system installed;
- (3) any reports and findings related to the evaluation, siting, and construction of the wastewater system; and
- (4) information to the owner on procedures for final submittal to the local health department.

Authority G.S. 90A-74; 130A-336.2.

CHAPTER 48 - BOARD OF PHYSICAL THERAPY EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Physical Therapy Examiners intends to amend the rules cited as 21 NCAC 48D .0107, .0109, .0111; and 48E .0101.

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.ncptboard.org/index.html

Proposed Effective Date: August 1, 2021

Public Hearing:

Date: March 10, 2021

Time: 10:00 a.m.

Location: Zoom Meeting ID: 954 9130 8253 Passcode: 662437 https://zoom.us/j/95491308253?pwd=OUgwWHRBd2FCZEhmT1VINm9UeSt0QT09

Reason for Proposed Action: These rules were previously adopted as temporary rules by the Board of Physical Therapy Examiners. The Board is seeking to make these rules permanent. On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The World Health Organization, the Center of Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. Section 16 of Executive Order No. 116 temporarily waives licensure requirements for healthcare providers licensed in other states, territories, and the District of Columbia. The North Carolina Board of Physical Therapy Examiners seeks to help increase the pool of qualified healthcare providers who can provide assistance with a COVID-19 outbreak by creating an expedited process by which physical therapists and physical therapist assistants can be licensed. Furthermore, qualified physical therapists and physical therapist assistants will be essential in the rehabilitation process for many persons recovering from the residual effects of COVID-19.

Comments may be submitted to: Deborah Ragan, 8300 Health Park, Suite 233, Raleigh, NC 27615; phone (919) 490-6393; fax (919) 490-5106; email dragan@ncptboard.org

Comment period ends: March 16, 2021

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 (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SUBCHAPTER 48D - EXAMINATIONS

21 NCAC 48D .0107 PERSONS REFUSED EXAMINATION PERMISSION

(a) The Board shall refuse permission to take the examination to any person who:

- (1) Does not meet the requirements as set forth in the Physical Therapy Practice Act;
(2) Furnishes false information to the Board on the application; or
(3) Fails to furnish personal background information as required by these Rules.

(b) The Board and Federation have authority to approve an applicant's exam eligibility. eligibility and may delegate its authority to the Federation. Upon delegation of said authority, the Board shall approve exam eligibility for foreign-trained applicants. The Federation shall grant exam eligibility for all other applicants as set forth in National Physical Therapy Examination policies, which are available free of charge at the Board's office and at www.fsbpt.org.

(c) Any applicant who is refused permission to take the examination shall be entitled to petition the Board for a contested case hearing pursuant to Subchapter 48G, Section .0500 of this Chapter.

(d) Any applicant who is refused permission to take the examination by the Federation has the option to appeal using the policies set forth in Paragraph (b) of this Rule.

Authority G.S. 90-270.92; 90-270.95; 90-270.97; 90-270.100; 90-270.103.

21 NCAC 48D .0109 RETAKING EXAMINATION

(a) Arrangements for Retake. To retake the examination, the applicant shall notify the Board in writing, and pay the retake fee as specified in 21 NCAC 48F .0102. The examination cost as set forth by the Federation (www.fsbpt.org) is hereby incorporated by reference and includes subsequent amendments and editions. A copy of the retake application may be obtained from the Board's website at no charge. If the Federation approves exam eligibility, the Federation shall administer the retake process according to NPTE policies, which may be found at www.fsbpt.org.

(b) Retake Examination. The Board shall administer a particular form of the examination to an applicant only one time.

(c) Limitations. An applicant shall be limited to taking the examination the number of times allowed by the Federation as indicated on the Federation's website (www.fsbpt.org).

Authority G.S. 90-270.92; 90-270.95; 90-270.97; 90-270.100.

21 NCAC 48D .0111 APPLICANTS WITH SPECIAL NEEDS

Examination candidates who need special accommodations for the examination as a result of a medical or physical dysfunction shall file an Accommodation Request Form and supporting documentation with the executive director Executive Director at least 60 days before the examination date in order for the request to be considered by the Board. If the Federation grants exam eligibility, the accommodation request shall be made pursuant to Federation testing accommodation policy, which may be found at www.fsbpt.org.

Authority G.S. 90-270.92; P.L. 101-336.

SUBCHAPTER 48E - APPLICATION FOR LICENSURE

SECTION .0100 - REQUIREMENTS

21 NCAC 48E .0101 FILING APPLICATION AND BOARD DETERMINATION OF EXAM ELIGIBILITY

- (a) An applicant for licensure shall ensure that his or her credentials are filed with the executive director Executive Director in accordance with the rules of this Subchapter.
(b) To be considered for a desired examination date, the applicant Applicants pursuant to G.S. 90-270-97 shall submit all application requirements to the executive director Executive Director at least 30 days prior to the examination.
(c) The Board shall not approve an application until the applicant has graduated as defined by 21 NCAC 48A .0105(6).

Authority G.S. 90-270.92; 90-270.95; 90-270.98(b).

CHAPTER 64 – BOARD OF EXAMINERS OF SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners for Speech and Language Pathologists and Audiologists intends to adopt the rules cited as 21 NCAC 64 .0108, .1101-.1105 and amend the rule cited as 21 NCAC 64 .0219.

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

Proposed Effective Date: June 1, 2021

Public Hearing:

Date: February 1, 2021

Time: 10:00 a.m.

Location: Attend online at: https://zoom.us/s/91799802723;

Phone one-tap: US +13017158592.917998022723# or +13126266799.91799802723#

Meeting ID: 917 9980 2723

Reason for Proposed Action:

21 NCAC 64 .0108 - To give the Board authority to waive rules when requested.

21 NCAC 64 .0219 - To clarify the roles of Speech and Language Pathology Assistants and Audiology Assistants.

21 NCAC 64 .1101 - To provide a single location in the chapter for definitions.

21 NCAC 64 .1102 - To clarify the registration process of Audiology Assistants.

21 NCAC 64 .1103 - To set out the requirements by which audiologists supervise assistants.

21 NCAC 64 .1104 - To set out the scope of practice for Audiology Assistants.

21 NCAC 64 .1105 - To set out supervision and continuing competence requirements of Audiology Assistants.

Comments may be submitted to: Denise Sherwood Brown, Executive Director, NC Board of Examiners for Speech and Language Pathologists and Audiologists, PO Box 16885, Greensboro, NC 27416; phone 336-272-1828; fax 336-262-4353; email dbrown@ncboeslpa.org

Comment period ends: March 16, 2021

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 (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 64 .0108 WAIVER

The Board may waive any rule in this Chapter that is not statutorily required if a licensee submits a written request. Factors the Board shall use in determining whether to grant the waiver are:

- (1) degree of disruption to the Board;
(2) cost to the Board;
(3) degree of benefit to the public;

- (4) whether the requesting party had control over the circumstances that required the requested waiver;
- (5) notice to and opposition by the public;
- (6) need for the waiver; and
- (7) previous requests for waivers submitted from the requesting party.

Authority G.S. 90-304; 150B-19(6).

SECTION .0200 - INTERPRETATIVE RULES

21 NCAC 64 .0219 TELEPRACTICE

(a) For purposes of this Rule the following words shall have the following meanings:

- (1) "Patient site" means the patient's physical location at the time of the receipt of the telepractice services.
- (2) "Provider" means a licensed speech and language pathologist or audiologist who provides telepractice services.
- (3) "Provider site" means the licensee's physical location at the time of the provision of the telepractice services.
- (4) "Telepractice" means the use of telecommunications and information technologies for the exchange of encrypted patient data, ~~obtained through real time interaction, data from patient site to provider site for the provision of speech and language pathology and audiology services to patients through hardware or internet connection. Telepractice also includes the interpretation of patient information provided to the licensee via store and forward techniques. connection via real time interaction or store forward techniques.~~

(b) Telepractice shall be obtained in ~~real time and in a manner sufficient~~ to ensure patient confidentiality.

(c) Telepractice is subject to the same standard of practice stated in Rules .0205 and .0216 of this Chapter as if the person being treated were physically present with the licensee. Telepractice is the responsibility of the licensee. ~~licensee and shall not be delegated.~~

(d) Telepractice constitutes the practice of Speech and Language Pathology and Audiology in both the patient site and provider site. Providers must hold a license in the state of the provider site and shall be in compliance with the statutory and regulatory requirements of the patient site.

(e) Registered Speech and Language Pathology Assistants and Audiology Assistants under the supervision of licensed providers shall be allowed to engage in telepractice under the same level of direct supervision as required by 21 NCAC 64 .1003(e)(1), (2), and (6).

~~(f)~~(f) Licensees and staff involved in telepractice must be trained in the use of telepractice equipment.

~~(g)~~(g) Notification of telepractice services shall be provided to the patient and guardian if the patient is a ~~minor.~~ minor or under

guardianship. The notification shall include the right to refuse telepractice services and options for alternate service delivery.
(g) ~~Telepractice constitutes the practice of Speech and Language Pathology and Audiology in both the patient site and provider site.~~

Authority G.S. 90-304(a)(3).

SECTION .1100 - REQUIREMENTS FOR THE USE OF AUDIOLOGY ASSISTANTS IN DIRECT SERVICE DELIVERY

21 NCAC 64 .1101 DEFINITIONS

(a) "Board" means the North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists.

(b) "Licensee" means an individual who holds a current permanent license in audiology from the North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists.

(1) "Primary Supervising Licensee" means the Licensee who supervises the majority of the Assistant's work, who is responsible for the Assistant's registration with the Board, and who bears the responsibility for all supervision requirements and notification responsibility to the Board of any changes in registration information set forth in the rules of this Section.

(2) "Secondary Supervising Licensee" means a Licensee who supervises the Assistant in the absence of the Primary Supervising Licensee to cover variations in work hours.

(c) "Assistant" means an Audiology Assistant who is registered by a Primary Supervising Licensee with the Board.

(d) "Registration" means the process through which an Assistant is approved by the Board to work with a Licensee to provide services to the public.

Authority G.S. 90-298.1; 90-304(a)(3).

21 NCAC 64 .1102 GENERAL REQUIREMENTS

(a) For registration, Assistants must present:

(1) Evidence of high school diploma or equivalent; and

(2) A letter of certification of the Assistant's competency provided by a supervising audiologist that attests to one of the following:

(A) the supervising audiologist has trained the Assistant in tasks allowed in Rule .1104 of this Section;

(B) the Assistant has provided the supervising audiologist with evidence that he or she has completed training in the tasks allowed in Rule .1104 of this Section; or

(C) the supervising audiologist has assessed and is satisfied with the competency of the Assistant to perform the tasks allowed in Rule .1104 of this Section.

(b) Assistants who conduct pure tone audiometry under general supervision by the licensee must have completed a Certified Occupational Hearing Conservationists (COHC) or a program with equivalent certification requirements. If the assistant has completed training under the NC Hearing Aid Dealers and Fitters Board, then proof of successful completion of the NCHADFB exam would also meet the requirement.

(c) A Licensee who is employed full-time (30 hours/week or more) may register to be primary supervisor of no more than two Assistants at any one time. A Licensee who is employed part-time (less than 30 hours/week) may register to supervise no more than one Assistant at any one time. The Primary Supervising Licensee shall ensure that the Assistant complies with this Section, and with ethical standards set forth in the Board's Practice Act and rules. Secondary Supervising Licensees in the same practice may also supervise the Assistant, provided that such supervision is conducted in accordance with the rules set forth in this Section.

(d) The Primary Supervising Licensee must keep the Board apprised of any changes in registration information as follows:

- (1) Changes of supervising licensee(s) shall require prior written approval of the Board and the Primary Supervising Licensee must submit the request in writing at least 10 days prior to the effective date.
- (2) The Primary Supervising Licensee must submit changes that do not directly relate to patient care, such as change of address, to the Board in writing within 10 business days of the effective change. Such changes do not require pre-approval from the Board.

(e) The Primary Supervising Licensee shall remit to the Board an annual registration fee for the Assistant in an amount of forty dollars (\$40.00).

Authority G.S. 90-298.1; 90-304(a)(3).

21 NCAC 64 .1103 LICENSEE REQUIREMENTS

(a) Licensees who register an Assistant shall be licensed in North Carolina, or hold equivalent qualifications from another state, for the previous two years prior to registering an Assistant with the Board. Temporary license holders shall not register Assistants.

(b) Licensees who register an Assistant shall attest to the Assistant's understanding and review of the registration and supervision process (scope of practice, ethics, written protocols, record keeping) set forth in the rules of this Section.

(c) Licensees must submit the application and annual fee for registration of the Assistant to the Board.

(d) Licensees shall inform all patients when services are being provided by an Assistant and the Assistant must wear a badge that includes the job title: "Audiology Assistant."

(e) Tasks and duties that are within the scope of responsibilities for an Assistant are listed in Rules .1104 and .1105 of this Section. The Supervising Licensee shall be responsible for all patient services performed by the Assistant. The Supervising Licensee shall determine the assignment of tasks and the amount and type of supervision to ensure quality of care considering relevant factors such as the skills of the Assistant, the needs of the patient, and the service setting. Before assigning treatment tasks to an

Assistant, the Licensee shall evaluate the patient files and develop a plan for the care and/or follow an established protocol.

(f) Any time an Assistant provides services during a patient encounter (screening or treatment), the Supervising Licensee or Assistant shall document the Assistant's services in the patient's medical record. If the Assistant documents the services, the Supervising Licensee shall co-sign the medical record. The Supervising Licensee shall be responsible for the accuracy and compliance of the documentation. These signed and dated patient encounter records must be retained as part of the patient's file for the time period specified in Rule .0209 of this Chapter and may be requested by the Board.

(g) The Board may do random audits of records to determine compliance with the rules in this Chapter.

(h) When patient services are being rendered by an Assistant, the Supervising Licensee must be available to observe and supervise the Assistant, when necessary.

(i) The Primary Supervising Licensee shall assess the Assistant's competencies during the initial 60 days of employment using a performance-based competency assessment. The completed assessment shall be submitted to the Board within 90 days of registration. A new competency assessment must be completed and filed within 90 days each time the Primary Supervising Licensee changes.

(j) Assistants shall only engage in those activities related to the practice of Audiology as set forth in Rules .1104 and .1105 of this Section. An Assistant's activities related to the practice of Audiology not set forth therein shall be regarded as the unlicensed practice of Audiology.

Authority G.S. 90-298.1; 90-304(a)(3).

21 NCAC 64 .1104 AUTHORIZED TASKS OF AUDIOLOGY ASSISTANTS

(a) An audiology assistant may engage in the following direct patient services:

- (1) Obtaining partial or selected case history information from patients and families;
- (2) Administering audiologic screening protocols, as directed by the supervising audiologist. These screening procedures, including tests and checklists or parts of tests and checklists, shall have the purpose of determining the need for further diagnostic testing by the supervising audiologist and must meet the following criteria:
 - (A) have administration protocols and methods;
 - (B) consist of test items that require no more than a binary judgment (i.e., yes-no, present-absent, pass/refer);
 - (C) require no more than a specifically-elicited single response; and
 - (D) require no clinical interpretation by the assistant;
- (3) Preparing or positioning patients for evaluation or treatment following guidelines of the supervising audiologist and of the facility;

- (4) Direct patient services for evaluation are not within the approved scope of responsibilities for assistants who are not Certified Occupational Hearing Conservationists (COHC). Audiology assistants who are not COHC may assist in the evaluation of both pediatric and adult patients, but only under the supervision of the supervising audiologist who is present in the room and attending to the assistant's activities 100 percent of the time. Audiology Assistants who are COHC may conduct unmasked pure-tone audiometry under supervision by the licensee for adult patients. Direct patient services to children under the age of 21 years old are not within the approved scope of activities for assistants unless under the supervision of the supervising audiologist who is physically present in the room and attending to 100 percent of the assistant's activities;
- (5) Basic hearing device repair and trouble shooting;
- (6) Assistance with procedures related to the fitting and dispensing of hearing devices, not to include cerumen management. Ear mold impressions must be conducted with the supervision of an audiologist;
- (7) Instructing patients in care and use of devices dispensed by the supervising audiologist; and
- (8) Providing services previously mentioned through telehealth to extend access to clinical care.

- (3) Observing universal precautions and safety procedures;
- (4) Releasing patients only to the care of care-givers of record; and
- (5) Participating in research activities as approved by an Institutional Review Board and oversight committees.

Authority G.S. 90-298.1; 90-304(a)(3).

21 NCAC 64 .1105 SUPERVISION AND CONTINUING COMPETENCE REQUIREMENTS

Following registration by a supervising audiologist, a registered assistant shall:

- (1) discuss job expectations with the supervising audiologist(s) in order to have a mutual understanding of job scope and responsibilities;
- (2) participate in a specified amount of supervised training according to a written plan for all tests and clinical equipment that will be used for assessment and treatment of the patient;
- (3) receive employment evaluations on a scheduled basis from the supervising audiologist(s) to assess the assistant's performance, strengths, and weaknesses of the assistant and to establish development goals for continuous performance improvement;
- (4) request assistance, additional instruction, and additional supervision from the supervising audiologist, when needed;
- (5) participate in various types of educational activities in order to enhance skill and knowledge, as assigned by the supervising audiologist; and
- (6) read information assigned by the audiologist.

Authority G.S. 90-298.1; 90-304(a)(3).

(b) An audiology assistant may engage in the following indirect patient services:

- (1) Reporting any workplace conduct that appears to be unethical in violation of Section .0300 of this Chapter or illegal to the supervising audiologist or to the Board of Examiners;
- (2) Requesting assistance from the supervising audiologist, as needed, in order to ensure continuous service quality;

Note from the Codifier: The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.
 This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: *Medical Care Commission*

Rule Citation: *10A NCAC 13F .1801, .1802; 13G .1701, and .1702*

Effective Date: *December 30, 2020*

Date Approved by the Rules Review Commission: *December 17, 2020*

Reason for Action: *On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of SARS-CoV-2, commonly known as COVID-19. COVID-19 is a respiratory disease that can result in serious illness or death. The World Health Organization, the Center for Disease Control and Prevention (CDC), and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. In order to protect the health and safety of citizens residing in adult care homes, family care homes, and the healthcare workforce employed in these facilities, the NC Medical Care Commission seeks to adopt these rules under temporary procedures. These regulations are needed to save lives in adult care homes, family care homes, and protect the health of the residents and staff.*

CHAPTER 13 - NC MEDICAL CARE COMMISSION

SUBCHAPTER 13F – LICENSING OF ADULT CARE HOMES OF SEVEN OR MORE BEDS

SECTION .1800 - INFECTION PREVENTION AND CONTROL

10A NCAC 13F .1801 INFECTION PREVENTION AND CONTROL PROGRAM

(a) In accordance with Rule ~~13F-1211~~ .1211(a)(4) of this Subchapter and G.S. 131D-4.4A(b)(1), the facility shall establish and implement a ~~comprehensive~~ an infection prevention and control program (IPCP) consistent with the federal Centers for Disease Control and Prevention (CDC) published guidelines on infection prevention and control.

~~(b) The facility shall ensure implementation of the facility's IPCP, related policies and procedures, and guidance or directives issued by the CDC, the local health department, and/or the North Carolina Department of Health and Human Services.~~

~~(c)~~(b) The facility shall assure the following policies and procedures are established and implemented consistent with the federal CDC published ~~guidelines~~ guidelines, which are hereby

incorporated by reference including subsequent amendments and editions, on infection control that are accessible at no charge online at <https://www.cdc.gov/infectioncontrol>, on infection control and addresses ~~at least~~ the following:

- (1) Standard and transmission-based precautions, for which guidance can be found on the CDC website at <https://www.cdc.gov/infectioncontrol/basics>, including:
 - (A) respiratory hygiene and cough etiquette;
 - (B) environmental cleaning and disinfection;
 - (C) reprocessing and disinfection of reusable resident medical equipment;
 - (D) hand hygiene;
 - (E) accessibility and proper use of personal protective equipment (PPE); and
 - (F) types of transmission-based precautions and when each type is indicated, including contact precautions, droplet precautions, and airborne precautions;
- (2) When and how to report to the local health department when there is a suspected or confirmed reportable communicable disease case or condition, or communicable disease outbreak in accordance with Rule ~~13F~~ .1802 of this Section;
- (3) Resident care when there is suspected or confirmed communicable disease in the facility, including, when indicated, isolation of infected residents, limiting or stopping group activities and communal dining, and based on the mode of transmission, use of source control as tolerated by the residents. Source control includes the use of face coverings for residents when the mode of transmission is through a respiratory pathogen;
- (4) Procedures for screening visitors to the facility and criteria for restricting visitors who exhibit signs of illness, as well as posting signage for visitors regarding screening and restriction procedures;
- (5) Procedures for screening facility staff and criteria for restricting staff who exhibit signs of illness from working;
- (6) Procedures and strategies for addressing staffing issues and ensuring staffing to meet the needs of the residents during a communicable disease outbreak;

- (7) The annual review and update of the facility's IPCP to be consistent with published CDC guidance on infection control; and update of the IPCP as necessary; and
- (8) a process for updating policies and procedures to reflect guidelines and recommendations by the CDC, local health department, and North Carolina Department of Health and Human Services (NCDHHS) during a public health emergency as declared by the United States and that applies to North Carolina or a public health emergency declared by the State of North Carolina.

(c) When a communicable disease outbreak has been identified at the facility or there is an emerging infectious disease threat, the facility shall ensure implementation of the facility's IPCP, related policies and procedures, and published guidance issued by the CDC; however, if guidance or directives specific to the communicable disease outbreak or emerging infectious disease threat have been issued in writing by the NCDHHS or local health department, the specific guidance or directives shall be implemented by the facility.

(d) In accordance with Rule ~~13F~~ .1211 of this Subchapter, the facility shall ensure all staff are trained within 30 days of hire and annually on the policies and procedures listed in Subparagraphs ~~(e)(1)(b)(1)~~ through (5) of this Rule. Training on Parts ~~(e)(1)(D)(b)(1)(D)~~ and (E) of this Rule shall include hands-on demonstration by ~~a trained~~ an instructor who is a licensed health professional and return demonstration by the staff person.

(e) The facility shall ensure that, prior to administration, all staff responsible for administering tests to residents for the diagnosis of a communicable disease or condition shall be trained on the proper use of testing devices and materials consistent with manufacturer's specifications.

(f) The facility shall ensure staff employed in a management or supervisory role in the facility are trained within 30 days of hire and annually on the policies and procedures listed in Subparagraphs ~~(e)(1)(b)(1)~~ through (6) of this Rule.

(g) The policies and procedures listed in Paragraph ~~(e)(b)~~ of this Rule shall be maintained in the facility and accessible to staff working at the facility.

~~(h) The facility shall ensure that the IPCP is incorporated into the facility's emergency preparedness disaster plan and updated as needed to~~ shall address any emerging infectious disease threats to protect the residents during a shelter-in-place or emergency evacuation event.

Authority G.S. 131D-2.16; 131D-4.4A; ~~131D-4.5~~; 143B-165; Emergency Adoption Eff. October 23, 2020; 2020; Temporary Adoption Eff. December 30, 2020.

10A NCAC 13F .1802 REPORTING AND NOTIFICATION OF A SUSPECTED OR CONFIRMED COMMUNICABLE DISEASE OUTBREAK

(a) The facility shall report suspected or confirmed communicable diseases and conditions within the time period and in the manner determined by the Commission for Public Health as specified in Rules 10A NCAC 41A .0101 and 10A NCAC 41A .0102(a)(1) through (a)(3), which are hereby incorporated by

reference, including subsequent amendments and editions, amendments.

~~(b) The facility shall implement recommendations to the greatest extent practicable provided by the local health department in response to a suspected or confirmed communicable disease case or condition or communicable disease outbreak.~~

~~(e)(b)~~ (b) The facility shall inform the residents and their representative(s) and staff within 24 hours following confirmation by the local health department of a communicable disease outbreak, or one or more confirmed cases of COVID-19 among any resident or staff person. The facility, in its notification to residents and their representative(s), shall:

- (1) not disclose any personally identifiable information of the residents or staff;
- (2) provide information on the measures the facility is taking to prevent or reduce the risk of transmission, including whether normal operations of the facility will change;
- (3) provide weekly updates until the communicable illness within the facility has resolved, as determined by the local health department; and
- (4) provide education to the resident(s) concerning measures they can take to reduce the risk of spread or transmission of infection.

Authority G.S. 131D-2.16; 131D-4.4B; 131D-4.5; 143B-165; Emergency Adoption Eff. October 23, 2020; 2020; Temporary Adoption Eff. December 30, 2020.

SUBCHAPTER 13G – LICENSING OF FAMILY CARE HOMES

SECTION .1700 - INFECTION PREVENTION AND CONTROL

10A NCAC 13G .1701 INFECTION PREVENTION AND CONTROL PROGRAM

(a) In accordance with Rule ~~13G-1211~~ .1211(a)(4) of this Subchapter and G.S. 131D-4.4A(b)(1), the facility shall establish and implement ~~a comprehensive~~ an infection prevention and control program (IPCP) consistent with the federal Centers for Disease Control and Prevention (CDC) published guidelines on infection prevention and control.

~~(b) The facility shall ensure implementation of the facility's IPCP, related policies and procedures, and guidance or directives issued by the CDC, the local health department, and/or the North Carolina Department of Health and Human Services.~~

~~(e)(b)~~ (b) The facility shall assure the following policies and procedures are established and implemented consistent with the federal CDC published guidelines guidelines, which are hereby incorporated by reference including subsequent amendments and editions, on infection control that are accessible at no charge online at <https://www.cdc.gov/infectioncontrol>, on infection control and addresses at least the following:

- (1) Standard and transmission-based precautions, for which guidance can be found on the CDC website at

https://www.cdc.gov/infectioncontrol/basics, including:

- (A) respiratory hygiene and cough etiquette;
 - (B) environmental cleaning and disinfection;
 - (C) reprocessing and disinfection of reusable resident medical equipment;
 - (D) hand hygiene;
 - (E) accessibility and proper use of personal protective equipment (PPE); and
 - (F) types of transmission-based precautions and when each type is indicated, including contact precautions, droplet precautions, and airborne precautions;
- (2) When and how to report to the local health department when there is a suspected or confirmed reportable communicable disease case or condition, or communicable disease outbreak in accordance with Rule ~~13G~~ .1702 of this Section;
 - (3) Resident care when there is suspected or confirmed communicable disease in the facility, including, when indicated, isolation of infected residents, limiting or stopping group activities and communal dining, and based on the mode of transmission, use of source control as tolerated by the residents. Source control includes the use of face coverings for residents when the mode of transmission is through a respiratory pathogen;
 - (4) Procedures for screening visitors to the facility and criteria for restricting visitors who exhibit signs of illness, as well as posting signage for visitors regarding screening and restriction procedures;
 - (5) Procedures for screening facility staff and criteria for restricting staff who exhibit signs of illness from working;
 - (6) Procedures and strategies for addressing staffing issues and ensuring staffing to meet the needs of the residents during a communicable disease outbreak;
 - (7) The annual review and update of the facility's IPCP to be consistent with published CDC guidance on infection control; and update of the IPCP as necessary; and
 - (8) a process for updating policies and procedures to reflect guidelines and recommendations by the CDC, local health department, and North Carolina Department of Health and Human Services (NCDHHS) during a public health emergency as declared by the United States and that applies to North Carolina or a public health emergency declared by the State of North Carolina.

(c) When a communicable disease outbreak has been identified at the facility or there is an emerging infectious disease threat, the facility shall ensure implementation of the facility's IPCP, related policies and procedures, and published guidance issued by the CDC; however, if guidance or directives specific to the communicable disease outbreak or emerging infectious disease threat have been issued in writing by the NCDHHS or local health department, the specific guidance or directives shall be implemented by the facility.

(d) In accordance with Rule ~~13G~~ .1211 of this Subchapter, the facility shall ensure all staff are trained within 30 days of hire and annually on the policies and procedures listed in Subparagraphs ~~(e)(4)(b)(1)~~ through (5) of this Rule. Training on Parts ~~(e)(4)(D)(b)(1)(D)~~ and (E) of this Rule shall include hands-on demonstration by ~~a trained an~~ instructor who is a licensed health professional and return demonstration by the staff person.

(e) The facility shall ensure that, prior to administration, all staff responsible for administering tests to residents for the diagnosis of a communicable disease or condition shall be trained on the proper use of testing devices and materials consistent with manufacturer's specifications.

(f) The facility shall ensure staff employed in a management or supervisory role in the facility are trained within 30 days of hire and annually on the policies and procedures listed in Subparagraphs ~~(e)(4)(b)(1)~~ through (6) of this Rule.

(g) The policies and procedures listed in Paragraph ~~(e)(b)~~ of this Rule shall be maintained in the facility and accessible to staff working at the facility.

(h) ~~The facility shall ensure that the IPCP is incorporated into the facility's emergency preparedness disaster plan and updated as needed to~~ shall address any emerging infectious disease threats to protect the residents during a shelter-in-place or emergency evacuation event.

Authority G.S. 131D-2.16; 131D-4.4A; ~~131D-4.5;~~ 143B-165; Emergency Adoption Eff. October 23, 2020, 2020; Temporary Adoption Eff. December 30, 2020.

10A NCAC 13G .1702 REPORTING AND NOTIFICATION OF A SUSPECTED OR CONFIRMED COMMUNICABLE DISEASE OUTBREAK

(a) The facility shall report suspected or confirmed communicable diseases and conditions within the time period and in the manner determined by the Commission for Public Health as specified in Rules 10A NCAC 41A .0101 and 10A NCAC 41A .0102(a)(1) through (a)(3), which are hereby incorporated by reference, including subsequent ~~amendments and editions;~~ amendments.

~~(b) The facility shall implement recommendations to the greatest extent practicable provided by the local health department in response to a suspected or confirmed communicable disease case or condition or communicable disease outbreak.~~

~~(e)(b)~~ The facility shall inform the residents and their representative(s) and staff within 24 hours following confirmation by the local health department of a communicable disease outbreak, or one or more confirmed cases of COVID-19 among any resident or staff person. The facility, in its notification to residents and their representative(s), shall:

- (1) not disclose any personally identifiable information of the residents or staff;
- (2) provide information on the measures the facility is taking to prevent or reduce the risk of transmission, including whether normal operations of the facility will change;
- (3) provide weekly updates until the communicable illness within the facility has resolved, as determined by the local health department; and
- (4) provide education to the resident(s) concerning measures they can take to reduce the risk of spread or transmission of infection.

Authority G.S. 131D-2.16; 131D-4.4B; 131D-4.5; 143B-165; Emergency Adoption Eff. October 23, 2020; 2020; Temporary Adoption Eff. December 30, 2020.

- (A) Holiday Shores Subdivision;
- (B) Lake James Campground;
- (C) Laurel Pointe Subdivision;
- (D) The waters of Boyd Moore Cove shore to shore, north of a line from a point on the northwest shore at 35.76667 N, 81.82337 W to a point on the southeast shore at 35.76558 N, 81.82245 W;
- (E) East Shores development;
- (F) Eastern shore of Lake James at Mallard Cove;
- (G) That portion of Lake James shore to shore, beginning 50 yards northeast of the NC Highway 126 bridge at a line from a point on the north shore at 35.74398 N, 81.88426 W, to a point on the south shore at 35.74334 N, 81.88383 W, and ending at a line 215 yards southwest of the NC Highway 126 bridge, from a point on the northwest shore at 35.74257 N, 81.88679 W to a point on the southeast shore at 35.74160 N, 81.88516 W;
- (H) Within 50 yards of the Canal Bridge Boating Access area dock;
- (I) The waters within 50 yards of the end of the South Pointe Subdivision peninsula from a point east of the peninsula at 35.76399 N, 81.83768 W, and surrounding the peninsula from a point east of the peninsula at 35.76399 N, 81.83768 W, and surrounding the peninsula to a point west of the peninsula at 35.76307 N, 81.83648 W; and
- (J) The waters of Sherman's Hollow Cove shore to shore, and contiguous with those waters beginning at a point on the west shore of the mouth of Sherman's Hollow Cove at 35.76423 N, 81.82748 W, extending northeast within 50 yards of Linville Point to a point on the northeast shore of Linville Point at 35.76596 N, 81.82432 W.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule-making Agency: *Wildlife Resources Commission*

Rule Citation: *15A NCAC 10F .0323*

Effective Date: *December 30, 2020*

Date Approved by the Rules Review Commission: *December 17, 2020*

Reason for Action: *A temporary no-wake zone in Burke County on Lake James at Mill Creek at Lake James State Park, shore to shore for 345 yards, and a safety zone in the north part of Mill Creek where vessel entry is prohibited, are needed to mitigate water safety hazards during construction of a pedestrian bridge connected with the new Lake James Visitor Center and Fonta Flora Trail. The construction project includes barges, cranes on barges and construction equipment including pre-fabricated metal overhead bridge parts that will pose hazards to any type of vessel in the water. The NCWRC has authority pursuant to G.S. 150B -21(a) to establish no-wake zones through temporary rulemaking.*

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0323 BURKE COUNTY

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

- (1) Lake Hickory;
- (2) Lake James, delineated by markers consistent with Paragraph (e) of this Rule, at the following locations:

(3) Lake Rhodhiss.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within 50 yards of any designated public boat launching ramp, bridge, marina, boat storage structure, boat service area, dock, or pier; or while on designated waters of the areas described in Paragraph (a) of this Rule.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area on the regulated areas described in Paragraph (a) of this Rule.

(d) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area on the regulated areas described in Paragraph (a) of this Rule.

(e) Placement of Markers. The Board of Commissioners of Burke County is 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.

(f) Notwithstanding Paragraphs (a) through (e) of this Rule, no person shall operate a vessel at greater than no-wake speed in the waters known as Mill Creek at Lake James State Park, on Lake James shore to shore, beginning 345 yards northwest of a line from a point on the southwest shore at 35.76016 N, 81.87322 W to a point on the northeast shore at 35.762040 N, 81.87150 W, and ending at a line from a point on the southwest shore at 35.76215 N, 81.87624 W to a point on the northeast shore at 35.76343 N, 81.87442 W. Vessel entry not authorized by the North Carolina Wildlife Resources Commission shall be prohibited by establishment of a safety zone in the waters of Mill Creek on Lake James, northeast and northwest of a line from a point on the southwest shore at 35.76215 N, 81.87624 W to a point on the northeast shore at 35.76343 N, 81.87442 W. The North Carolina

Wildlife Resources Commission shall be the designated agency for placement and maintenance of markers for this regulated area.

Authority G.S. 75A-3; 75A-15; 102-1.1;

Eff. July 1, 1976;

Amended Eff. December 1, 1995; December 1, 1994; December 1, 1992; March 1, 1992;

Temporary Amendment Eff. April 1, 1999;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. August 15, 2001;

Amended Eff. July 1, 2009; May 1, 2009; August 1, 2002;

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

Amended Eff. November 1, 2017;

Emergency Amendment Eff. November 2, 2020.

Temporary Amendment Eff. December 30, 2020.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission December 17, 2020 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 984-236-1850. 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

Jeanette Doran (Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jeff Hyde
Randy Overton

Appointed by House

Anna Baird Choi (1st Vice Chair)
Andrew P. Atkins (2nd Vice Chair)
Paul Powell
Garth Dunklin

COMMISSION COUNSEL

Amber Cronk May	984-236-1936
Amanda Reeder	984-236-1939
Ashley Snyder	984-236-1941

RULES REVIEW COMMISSION MEETING DATES

January 21, 2021	February 18, 2021
March 18, 2021	April 15, 2021

RULES REVIEW COMMISSION MEETING

MINUTES

December 17, 2020

The Rules Review Commission met on Thursday, December 17, 2020 in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx. The Commissioners held a WebEx meeting to ensure compliance with Executive Orders limiting mass gatherings, and to encourage social distancing. The meeting was conducted in accordance with the provisions of G.S. 166A-19.24.

Commissioners present via teleconference were Bobby Bryan, Andrew Atkins, Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Paul Powell.

Staff member Alex Burgos was present in the Commission room. Commission Counsel Amber May, Amanda Reeder, and Ashley Snyder were present via WebEx.

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

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

The Chair read into the record the Retirement Resolution in Appreciation of the Codifier of Rules, Molly Masich. Upon the call of the Chair, the resolution was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None. A copy of the resolution is attached.

Molly Masich, the Codifier of Rules, addressed the Commission.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the November 15, 2020 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow-up matters for the State Board of Education Tabs A and B, and Department of Transportation Tab C.

FOLLOW UP MATTERS

State Board of Education

16 NCAC 06B .0114 – Upon the call of the Chair, the Commission voted to approve the rule by roll-call vote, ayes 4, noes 4 as follows: Voting in the affirmative: Anna Baird Choi, Margaret Currin, Randy Overton, and Paul Powell – 4. Voting in the negative: Andrew Atkins, Bobby Bryan, Jeanette Doran, and Jeff Hyde – 4. The motion failed.

Upon the call of the Chair, the Commission voted to object to the rewritten rule in accordance with G.S. 150B-21.9 for lack of statutory authority and clarity by roll-call vote, ayes 4, noes 4 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Jeanette Doran, and Jeff Hyde – 4. Voting in the negative: Anna Baird Choi, Margaret Currin, Randy Overton, and Paul Powell - 4. The motion failed.

Pursuant to G.S. 150B-21.12(d), the rule remains under review by the Commission.

Tom Ziko, General Counsel with the agency, addressed the Commission.

State Board of Education

16 NCAC 06D .0212 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Paul Powell – 8. Voting in the negative: None.

Prior to the review of the rules from the State Board of Education 16 NCAC 06G, Commissioner Hyde recused himself and did not participate in any discussion or vote concerning these Rules because he is a member of two North Carolina Charter School Boards and the rules pertain to charters.

16 NCAC 06G .0314 and .0519 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6 - noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Randy Overton, and Paul Powell – 6. Voting in the negative: None.

The Commission received over 10 letters of objection to 16 NCAC 06G .0314 and .0519. Pursuant to G.S. 150B-21.3, these Rules are subject to legislative review and a delayed effective date.

The Commission took no action on 16 NCAC 06D .0307, .0308, .0309, .0311; 06E .0204, .0206; and 06G .0508. Staff addressed the Commission on 16 NCAC 06D .0309. The rule received over 10 letters of and will be subject to legislative review and a delayed effective date upon approval in accordance with G.S. 150B-21.3.

Department of Transportation

Prior to the review of the rules from the Department of Transportation, Commissioner Bryan recused himself and did not participate in any discussion or vote concerning the rules because his family is currently involved in litigation with the Department.

Prior to the review of the rules from the Department of Transportation, Commissioner Bryan left the meeting and did not return.

19A NCAC 02E .0201, .0202, .0203, .0207, .0208, .0209, .0210, .0212, .0213, .0214, .0215, .0224, and .0226 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

The Commission objected to 19A NCAC 02E .0204, .0206, and .0225 for lack of statutory authority, finding that as written the rules conflict with G.S. 136-131.1 and 136-131.2. Specifically, the Commission found that requiring local approval or transferring regulatory oversight to local governments as provided in the rules is beyond the authority of the agency. Upon the call of the Chair, the rules were objected to by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew

Atkins, Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

TJ Bugbee, Executive Director with the North Carolina Outdoor Advertising Association, addressed the Commission.

Jeanine Dodson, President of the North Carolina Outdoor Advertising Association, addressed the Commission.

Craig Justus with Van Winkle, Buck, Wall, Starnes, and Davis, P.A., addressed the Commission.
Robert Sykes of Capital Outdoor, Inc. addressed the Commission

Jack Cozort, representing the Town of Cary and City of Wilson, addressed the Commission.

Ebony Pittman with the Department of Justice and representing the agency, addressed the Commission.

LOG OF FILINGS (PERMANENT RULES)

Board of Agriculture 02 NCAC 48A

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Soil and Water Conservation Commission

Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Board of Agriculture 02 NCAC 61

02 NCAC 61 .0112 –Upon the call of the Chair, the Commission voted to object to the rule in accordance with G.S. 150B-21.9 for lack of statutory authority and necessity by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Upon the call of the Chair, the remaining rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Department of Information Technology

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

Medical Care Commission 10A NCAC 13C

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Medical Care Commission 10A NCAC 13D, 13K

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

DHHS - Division of Health Service Regulation

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

Commission for Public Health

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

Environmental Management Commission 15A NCAC 02I, 02J

15A NCAC 02I - Upon the call of the Chair, the period of review was extended by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

15A NCAC 02J - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

Environmental Management Commission 15 NCAC 02N, 02O

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

Environmental Management Commission 15 NCAC 13B

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

Department of Revenue

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

Board of Funeral Service

Prior to the review of the rules from the Board of Funeral Service, Commissioner Choi recused herself and did not participate in any discussion or vote concerning these Rules because her law firm provides legal representation to the Board.

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 6. Voting in the negative: None

Board of Examiners for Nursing Home Administrators

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

Real Estate Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None

LOG OF FILINGS (TEMPORARY RULES)

Medical Care Commission

10A NCAC 13F .1801, .1802; 13G .1701, and .1702 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Wildlife Resources Commission

15A NCAC 10F .0323 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

COMMISSION BUSINESS

The meeting adjourned at 11:17 a.m.

RULES REVIEW COMMISSION

The next regularly scheduled meeting of the Commission is Thursday, January 21, 2021 at 9:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

**Rules Review Commission Meeting December 17, 2020
Held Via WebEx**

First Name	Last Name	Agency
Chrissy	Waggett	Agriculture
Phil	Wilson	Agriculture
Jackson	Leigh	DIT
Jeremy	Poplawski	DENR
Thomas	Ziko	DPI
Tammy	Howard	DPI
Anna	Szamosi	DIT
Beverly	Speroff	DHHS
Ebony	Pittman	DOT
Melissa	Vuotto	REC
Kevin	Harrison	DPI
Martha	Frisone	DHHS
Greta	Hill	DHHS
Jeannine	Dodson	Adams Outdoor Advertising
Charminique	Williams	DOI
Susan	Coward	DIT
Ashley	Pekrul	Wildlife
Kirsten	Leloudis	DHHS
Craig	Justus	Van Winkle Law Firm
Martha	Bell	Nursing
Lou	Martin	DPI
Bill	Lane	DENR
Jackson	Cozort	North State Strategies
Jonathan	Puryear	DOR
Megan	Lamphere	DHHS
Rob	Patchett	REC
TJ	Bugbee	NCOAA
Virginia	Niehaus	DHHS
Jessica	Montie	DENR
Nadine	Pfeiffer	DSHR
Dale	McKeel	Scenic NC, Inc.
Cassie	Gavin	Sierra Club
Chris	Colvin	Lamar Charlotte
Kim	Case	Caldwell Schools
jackie	keener	DIT
Pudge	Roberts	Coastal Outdoor Advertising
Nasser	Rahimzadeh	Village of Cemmons
Joelle	Burleson	DENR
John	Barkley	DOJ
Jason	Watkins	DENR
Bethany	Burgon	DOJ
Tichina	Hamer	DHHS

RULES REVIEW COMMISSION

Larry	Michael	DHHS
Michael	Ruthsatz	
Ed	Norman	DHHS
John	Cashion	DHHS
Libby	Kinsey	DHHS
Tammy	Sylvester	DHHS
Ruth	Strauss	DENR
Vernon	Cox	Agriculture
John	Correllus	DIT
Heather	Meech	DENR
Kim	Randolph	DOJ
Conrad	Plyler	Lamar Charlotte

A Retirement Resolution in Appreciation of Molly Masich

WHEREAS, Mary M. Masich (Molly) will retire on December 31, 2020 after completing over 41 years of dedicated service to the State of North Carolina;

WHEREAS, Molly Masich was hired in 1979 at the NC Department of Justice to codify rules, then moved to the Office of Administrative Hearings in 1986 to continue serving in that role, and was officially designated as the Codifier of Rules in 2015 (or, as she phrases her tenure, "I've been here forever.");

WHEREAS, in that position, Molly Masich defined the role of the Codifier and her guidance shaped the form of the North Carolina Administrative Code;

WHEREAS, Molly Masich has served as a historian for the evolution of rulemaking in North Carolina, sharing wisdom, insight, and anecdotes with members of the Rules Review Commission, legislators, agency personnel, the public, and all interested persons to ensure that the purpose and work associated with agency rulemaking are understood and appreciated by all;

WHEREAS, Molly Masich frequently presented to agency personnel, legislators, and the public on the process required by the Administrative Procedure Act to adopt rules, and on the Codifier's and the Office of Administrative Hearings' role in the rulemaking process;

WHEREAS, Molly Masich served as the head of the Rules Division for the Office of Administrative Hearings, wherein she managed Commission and publications staff;

WHEREAS, Molly Masich served as legislative liaison for the Office of Administrative Hearings and the Rules Review Commission in her tenure as Codifier and worked to ensure continual improvement to the Administrative Procedure Act;

WHEREAS, Molly Masich presented to the Joint Legislative Administrative Procedure Oversight Committee, wherein she advised the Committee on the rulemaking process and updated them on work of the Office of Administrative Hearings and the Rules Review Commission in that endeavor;

WHEREAS, Molly Masich often appeared before the Rules Review Commission to provide updates on legislation affecting rulemaking and to discuss how her position worked with the Commission to ensure the North Carolina Administrative Code remains accurate and up-to-date;

WHEREAS, during her tenure, Molly Masich has faithfully served to promote the best interests of the State;

WHEREAS, in her 41-year career with the State, Molly Masich distinguished herself with her deep knowledge and abilities related to rulemaking, and the expertise and

leadership she developed during that career has been invaluable to the Office of Administrative Hearings, the Rules Review Commission, and the State;

WHEREAS, Molly Masich earned the admiration, respect, and everlasting gratitude of agency staff, legislative staff, legislators, Commissioners, and all who encountered her for her dedication, friendship, professionalism, patience, and wisdom regarding the rulemaking process;

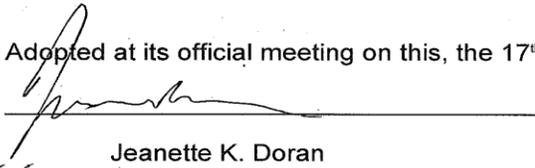
WHEREAS, the Rules Review Commission takes great pleasure in recognizing the professional achievements of Molly Masich, and herewith expresses our deepest appreciation for the invaluable contributions she has made to our Commission and rulemaking within North Carolina;

NOW BE IT THEREFORE RESOLVED that the Rules Review Commission recognize Molly Masich for her contributions to the State of North Carolina, including her work with the Commission, rulemaking agencies, and citizenry;

BE IT RESOLVED FURTHER that the Commission recognize Molly Masich for sharing her wisdom, knowledge, and resources unselfishly with all of us; and for her leadership and friendship throughout the years; and

BE IT RESOLVED FURTHER that this Resolution be presented to Molly Masich and a copy of this document be placed in the official files of the Rules Review Commission as part of the permanent record of the Commission as a lasting tribute to her accomplishments and contributions.

Adopted at its official meeting on this, the 17th day of December, 2020.



Jeanette K. Doran

Chair

LIST OF APPROVED TEMPORARY RULES

December 17, 2020 Meeting

MEDICAL CARE COMMISSION

<u>Infection Prevention and Control Program</u>	10A NCAC 13F .1801
<u>Reporting and Notification of a Suspected or Confirmed Co...</u>	10A NCAC 13F .1802
<u>Infection Prevention and Control Program</u>	10A NCAC 13G .1701
<u>Reporting and Notification of a Suspected or Confirmed Co...</u>	10A NCAC 13G .1702

WILDLIFE RESOURCES COMMISSION

<u>Burke County</u>	15A NCAC 10F .0323
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LIST OF APPROVED PERMANENT RULES

December 17, 2020 Meeting

AGRICULTURE, BOARD OF

<u>Currant and Gooseberry Plants</u>	02 NCAC 48A .0401
<u>Infected Pines</u>	02 NCAC 48A .0402
<u>Cotton Stalk Destruction</u>	02 NCAC 48A .0612

SOIL AND WATER CONSERVATION COMMISSION

<u>Criteria and Procedures for Granting Job Approval Authority</u>	02 NCAC 59D .0201
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AGRICULTURE, BOARD OF

<u>Definitions</u>	02 NCAC 61 .0101
<u>Authorized Sanitizing Processes</u>	02 NCAC 61 .0102
<u>Other Methods of Sanitizing</u>	02 NCAC 61 .0103
<u>Disposal of Unclean Bedding</u>	02 NCAC 61 .0104
<u>Storage of Secondhand or Previously-Used Materials</u>	02 NCAC 61 .0105
<u>Non-Transferrable Registration</u>	02 NCAC 61 .0106
<u>Transfer of Manufacturers' and Sanitizer's Licenses</u>	02 NCAC 61 .0107
<u>License Feeds and Applications</u>	02 NCAC 61 .0108
<u>Cancellation of Licenses</u>	02 NCAC 61 .0109
<u>Durable Materials for Tags</u>	02 NCAC 61 .0110
<u>Effective Date of Licenses</u>	02 NCAC 61 .0111

INFORMATION TECHNOLOGY, DEPARTMENT OF

<u>Petitions for Rule-making</u>	09 NCAC 06A .0104
<u>Definitions</u>	09 NCAC 06D .0101
<u>Data Request Process</u>	09 NCAC 06D .0102
<u>Contributor Data Sharing Agreements</u>	09 NCAC 06D .0103
<u>Requestor Data Sharing Agreements and Requirements</u>	09 NCAC 06D .0104

MEDICAL CARE COMMISSION

<u>Requirements for Issuance of a License</u>	10A NCAC 13C .0202
<u>Suspension or Revocation: Ambulatory Surgical Facility</u>	10A NCAC 13C .0203
<u>Governing Authority</u>	10A NCAC 13C .0301

<u>Providing Anesthesia Services</u>	10A NCAC 13C .0501
<u>Regulations for Performed Services</u>	10A NCAC 13C .0702
<u>Nursing Personnel</u>	10A NCAC 13C .0902
<u>Definitions</u>	10A NCAC 13D .2001
<u>Physician Services for Ventilator Dependent Patients</u>	10A NCAC 13D .2506
<u>Ventilator Assisted Care</u>	10A NCAC 13D .3003
<u>Definitions</u>	10A NCAC 13K .0102
<u>Personnel</u>	10A NCAC 13K .0401
<u>Patient's Rights and Responsibilities</u>	10A NCAC 13K .0604
<u>Care Plan</u>	10A NCAC 13K .0701
<u>Dietary Services</u>	10A NCAC 13K .1104

HHS - HEALTH SERVICE REGULATION, DIVISION OF

<u>Definitions</u>	10A NCAC 14C .0202
<u>Filing Applications</u>	10A NCAC 14C .0203
<u>Extension of Review Board</u>	10A NCAC 14C .0205
<u>Replacement Equipment</u>	10A NCAC 14C .0303
<u>Definitions</u>	10A NCAC 14C .2101
<u>Performance Standards</u>	10A NCAC 14C .2103
<u>Definitions</u>	10A NCAC 14C .2201
<u>Performance Standards</u>	10A NCAC 14C .2203
<u>Definitions</u>	10A NCAC 14C .3901
<u>Performance Standards</u>	10A NCAC 14C .3903

PUBLIC HEALTH, COMMISSION FOR

<u>Training and Technical Assistance</u>	10A NCAC 41C .0304
<u>General</u>	10A NCAC 41C .0601
<u>Accreditation</u>	10A NCAC 41C .0602
<u>Training Course Instructor Qualifications</u>	10A NCAC 41C .0608

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Investigation of Violation of Rules</u>	12 NCAC 09A .0201
<u>Responsibilities of the School Director</u>	12 NCAC 09B .0202
<u>Specialized Firearms Instruction Training</u>	12 NCAC 09B .0226
<u>Specialized Driver Instructor Training</u>	12 NCAC 09B .0227
<u>Specialized Subject Control Arrest Techniques Instructor ...</u>	12 NCAC 09B .0232
<u>Specialized Physical Fitness Instructor Training</u>	12 NCAC 09B .0233
<u>Certification of Diversion Investigator and Supervisors</u>	12 NCAC 09B .0314
<u>Satisfaction of Training - SMI Operators</u>	12 NCAC 09B .0409
<u>Specialized Explosives and Hazardous Materials Instructor...</u>	12 NCAC 09B .0417

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Purpose and Scope</u>	15A NCAC 02J .0101
<u>Definitions</u>	15A NCAC 02J .0102
<u>Who May Assess</u>	15A NCAC 02J .0103
<u>When Assessable</u>	15A NCAC 02J .0104
<u>Standards</u>	15A NCAC 02J .0106

RULES REVIEW COMMISSION

<u>Proposed Assessment: Assessment: Modification</u>	15A NCAC 02J .0107
<u>Payment: Hearing: Remission/Mitigation</u>	15A NCAC 02J .0108
<u>Tenders of Payment: Remission/Mitigation: Hearing Request</u>	15A NCAC 02J .0109
<u>Referral</u>	15A NCAC 02J .0110
<u>Reports to the Commission</u>	15A NCAC 02J .0111
<u>Applicability</u>	15A NCAC 02N .0201
<u>Installation Requirements for Partially Excluded UST Systems</u>	15A NCAC 02N .0202
<u>Definitions</u>	15A NCAC 02N .0203
<u>Performance Standards for UST System Installations or Rep...</u>	15A NCAC 02N .0301
<u>Upgrading of Existing UST Systems After December 22, 1988...</u>	15A NCAC 02N .0302
<u>Notification Requirements</u>	15A NCAC 02N .0303
<u>Implementation Schedule for Performance Standards for New...</u>	15A NCAC 02N .0304
<u>Spill and Overfill Control</u>	15A NCAC 02N .0401
<u>Operation and Maintenance of Corrosion Protection</u>	15A NCAC 02N .0402
<u>Compatibility</u>	15A NCAC 02N .0403
<u>Repairs Allowed</u>	15A NCAC 02N .0404
<u>Reporting and Recordkeeping</u>	15A NCAC 02N .0405
<u>Periodic Testing of Spill Prevention Equipment and Contai...</u>	15A NCAC 02N .0406
<u>General Requirements for All UST Systems</u>	15A NCAC 02N .0501
<u>Requirements for Petroleum UST Systems</u>	15A NCAC 02N .0502
<u>Requirements for Hazardous Substance UST Systems</u>	15A NCAC 02N .0503
<u>Methods of Release Detection for Tanks</u>	15A NCAC 02N .0504
<u>Methods of Release Detection for Piping</u>	15A NCAC 02N .0505
<u>Release Detection Recordkeeping</u>	15A NCAC 02N .0506
<u>Reporting of Suspected Releases</u>	15A NCAC 02N .0601
<u>Investigation Due to Off-Site Impacts</u>	15A NCAC 02N .0602
<u>Release Investigation and Confirmation Steps</u>	15A NCAC 02N .0603
<u>Reporting and Cleanup of Spills and Overfills</u>	15A NCAC 02N .0604
<u>General</u>	15A NCAC 02N .0701
<u>Initial Response</u>	15A NCAC 02N .0702
<u>Initial Abatement Measures and Site Check</u>	15A NCAC 02N .0703
<u>Initial Site Characterization</u>	15A NCAC 02N .0704
<u>Free Product Removal</u>	15A NCAC 02N .0705
<u>Investigations for Soil and Groundwater Cleanup</u>	15A NCAC 02N .0706
<u>Corrective Action Plan</u>	15A NCAC 02N .0707
<u>Public Participation</u>	15A NCAC 02N .0708
<u>Temporary Closure</u>	15A NCAC 02N .0801
<u>Permanent Closure and Changes-In-Service</u>	15A NCAC 02N .0802
<u>Assessing the Site at Closure or Change-In-Service</u>	15A NCAC 02N .0803
<u>Applicability to Previously Closed UST Systems</u>	15A NCAC 02N .0804
<u>Closure Records</u>	15A NCAC 02N .0805
<u>General Requirements</u>	15A NCAC 02N .0901
<u>Notification</u>	15A NCAC 02N .0902
<u>Tanks</u>	15A NCAC 02N .0903
<u>Piping</u>	15A NCAC 02N .0904
<u>Containment Sumps</u>	15A NCAC 02N .0905
<u>Spill Buckets</u>	15A NCAC 02N .0906

<u>National Codes of Practice and Industry Standards</u>	15A NCAC 02N .0907
<u>General</u>	15A NCAC 02O .0101
<u>Financial Responsibility</u>	15A NCAC 02O .0102
<u>Substituted Sections</u>	15A NCAC 02O .0103
<u>Applicability</u>	15A NCAC 02O .0201
<u>Compliance Dates</u>	15A NCAC 02O .0202
<u>Definitions</u>	15A NCAC 02O .0203
<u>Amount and Scope of Required Financial Responsibility</u>	15A NCAC 02O .0204
<u>Allowable Mechanisms and Combinations of Mechanisms</u>	15A NCAC 02O .0301
<u>Self Insurance</u>	15A NCAC 02O .0302
<u>Guarantee</u>	15A NCAC 02O .0303
<u>Insurance and Risk Retention</u>	15A NCAC 02O .0304
<u>Surety Bond</u>	15A NCAC 02O .0305
<u>Letter of Credit</u>	15A NCAC 02O .0306
<u>Standby Trust Fund</u>	15A NCAC 02O .0307
<u>Insurance Pools</u>	15A NCAC 02O .0308
<u>Local Government Bond Rating Test</u>	15A NCAC 02O .0311
<u>Local Government Financial Test</u>	15A NCAC 02O .0312
<u>Local Government Guarantee</u>	15A NCAC 02O .0313
<u>Local Government Fund</u>	15A NCAC 02O .0314
<u>Substitution of Financial Assurance Mechanisms</u>	15A NCAC 02O .0315
<u>Cancellation or Nonrenewal by a Provider of Assurance</u>	15A NCAC 02O .0316
<u>Reporting by Owner or Operator</u>	15A NCAC 02O .0401
<u>Record Keeping</u>	15A NCAC 02O .0402
<u>Drawing on Financial Assurance Mechanisms</u>	15A NCAC 02O .0501
<u>Release from the Requirements</u>	15A NCAC 02O .0502
<u>Capacity of Owner or Operator or Provider of Assurance</u>	15A NCAC 02O .0503
<u>Replenishment</u>	15A NCAC 02O .0504
<u>Definitions</u>	15A NCAC 13B .0101
<u>Applicability</u>	15A NCAC 13B .0102
<u>General Requirements</u>	15A NCAC 13B .0103
<u>Solid Waste Storage</u>	15A NCAC 13B .0104
<u>Collection and Transportation of Solid Waste</u>	15A NCAC 13B .0105
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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 984-236-1850.

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
Selina Malherbe

J. Randolph Ward
Stacey Bawtinheimer
Tenisha Jacobs
Michael Byrne
Karlene Turrentine

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
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20	BLC	00366	9/28/2020	North Carolina Landscape Contractors Licensing Board	v.	Jason Lee Atkins and Natural Choice Contracting LLC f/k/a ALM Contracting LLC	Ward
20	CTY	00292	9/18/2020	Mohamad Kodaimati	v.	Town of Mint Hill	Malherbe
19	DOJ	05371	9/22/2020; 9/23/2020	William Donald Britt	v.	NC Sheriffs Education and Training Standards Commission	Lassiter
19	DOJ	06179	9/11/2020	Donald Ray McGlamery	v.	NC Sheriffs Education and Training Standards Commission	May
19	DOJ	06469	9/11/2020	Paul J Eagle	v.	North Carolina Sheriffs Education and Training Standards Commission	May
19	DOJ	06638	9/23/2020	Scott McCoy	v.	NC Sheriffs Education and Training Standards Commission	Sutton
19	DOJ	06927	9/14/2020	Jacqueline Deneen Coefield	v.	North Carolina Criminal Justice Education and Training Standards Commission	Ward
20	DOJ	00518	9/9/2020	Alicia Micole Smith	v.	NC Criminal Justice Education and Training Standards Commission	Bawtinheimer
20	DOJ	00742	9/10/2020	David Scott Sutton Jr.	v.	NC Criminal Justice Education and Training Standards Commission	Bawtinheimer
20	DOJ	02155	9/16/2020	William Thomas Whiting	v.	NC Private Protective Services Board	Bawtinheimer
20	OSP	01463	9/28/2020	Velma Sharpe-Johnson	v.	NC Department of Public Instruction Eastern North Carolina School for the Deaf	Culpepper

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20	ABC	02585	9/14/2020	NC Alcoholic Beverage Control Commission	v.	Vinayak Stores Inc T/A Triangle Food Mart	May
20	CPS	01750	9/1/2020	Tawanda S McKinney	v.	NC Crime Victims Compensation Commission	Mann
20	CPS	01834	9/9/2020	Clotene Freeman(for Husband) Michael Freeman	v.	Department of Public Safety Victims Services	Bawtinhimer
20	CPS	02330	9/15/2020	Russell C Rowe	v.	NC Department of Public Safety Victim Services	Overby
19	CSE	05959	9/15/2020	Alvin V Brookins	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Culpepper
19	CSE	06118	9/15/2020	Jason Addams	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
19	CSE	06583	9/23/2020	Lamont Fagan	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
20	CSE	00323	9/2/2020	Douglas A Gibson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
20	CSE	01804	9/16/2020	Christopher R Santana	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	01833	9/10/2020	Jonathan F Hall	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
20	CSE	01911	9/8/2020	Teresa Myers	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
20	CSE	02071	9/14/2020	Chris Newman	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Mann
20	CSE	02102	9/22/2020	Reginald J Lise	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	02348	9/15/2020	Frank J Rush	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
20	CSE	02369	9/15/2020	Olis Ray Bryant	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
20	CSE	02409	9/4/2020	Corshaun Williams	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
20	CSE	02603	9/17/2020	Leonardo Chavez	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
20	CSE	02835	9/23/2020	Joe Nathan Sikes II	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer

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19	DCS	06464	9/21/2020	Crystal M Humphrey	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
19	DHR	06737	7/29/2020; 9/1/2020	Kenesha Lofton	v.	NC Department of Health Human Services	Jacobs; Lassiter
20	DHR	02051	9/25/2020	Christopher Hilliard	v.	Department of Health and Human Services	Byrne
20	DHR	02368	9/15/2020	Renee J Williams	v.	NC Dept of Health and Human Serv Div of Child Development and Early Ed	Lassiter
20	DHR	02386	9/11/2020	Tyra Whitaker	v.	NCDON (OAH)	Lassiter
20	DHR	02583	9/4/2020	Theddies Lewis Butler/Butler's Day Care Center	v.	Division of Child Development and Early Education	Lassiter
20	DHR	02628	9/10/2020	Kingshuk Roy Choudhury	v.	Orange County Board of County Commissioners	Jacobs
20	DHR	02916	9/23/2020	Micah Glenn Smith Sr	v.	DHHS	Lassiter
20	DOT	01985	9/1/2020	Trent Demond Bellamy	v.	NC Department of Transportation	Mann
20	EDC	02795	9/11/2020	Kinetic Minds Inc and Kinetic Minds Inspire LLC	v.	NC Department of Public Instruction	Byrne
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20	MIS	01515	5/26/2020; 9/4/2020	Demetrius Marwin Holder	v.	Gaston County Sheriff's Dept Gaston County Police Department Gaston County Clerk of Superior Court	Malherbe
19	OSP	06219	9/3/2020	Lailtrice Graham Biteye	v.	Guilford County Department of Health and Human Services CWS	May
20	OSP	00418	9/18/2020	Laquannah N Hester	v.	North Carolina Department of Public Safety	Culpepper
20	SOS	00931	9/1/2020	Raleigh Police Memorial Foundation Inc	v.	NC Department of the Secretary of State, Charitable Solicitation Licensing Division	Mann
20	UNC	01561	9/1/2020	Lyndon Melvin Whitfield	v.	UNC Health Care Collections	Mann