

# ***NORTH CAROLINA REGISTER***

**VOLUME 35 • ISSUE 17 • Pages 1825 – 2013**

**March 1, 2021**

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**PUBLISHED BY**

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

January 27, 2021

## **EXECUTIVE ORDER NO. 189**

### **FURTHER EXTENSION OF THE MODIFIED STAY AT HOME ORDER**

**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, 180-181, 183-185, and 188; 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 then led the undersigned to implement further public health measures, including a more protective numerical limit on indoor gatherings, requiring Face Coverings in additional settings, requiring night-time closure to the public for certain businesses and activities, and directing that all North Carolinians stay at home, with exceptions, between the hours of 10:00 pm and 5:00 am every day; and

**WHEREAS**, these provisions are part of Executive Order No. 181 (the "Modified Stay at Home Order"), which was extended by Executive Order No. 188; and

Continuing Dangers from COVID-19; Importance of Statewide Vaccination Efforts

**WHEREAS**, over recent days in North Carolina, due to the measures taken to-date by the undersigned and due to the resilience and persistence of all North Carolinians, there have been modest improvements in some of the state's key COVID-19 metrics, relative to recent weeks; and

**WHEREAS**, specifically, as of the date of this Executive Order, the state is experiencing a sustained leveling of COVID-19 daily diagnoses, and a sustained slight decline in the percent of total COVID-19 tests that are positives and the number of COVID-19-associated hospitalizations relative to its peak a few weeks earlier; and

**WHEREAS**, despite these modest and recent improvements to certain of the state's key COVID-19 metrics relative to recent weeks, COVID-19 remains a serious threat to North Carolina communities, as evidenced by the fact that between January 3, 2021 and January 16, 2021, ninety-nine of North Carolina's one hundred 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**, despite the modest and recent improvements to certain of the state's key COVID-19 metrics relative to recent weeks, the number of daily COVID-19 cases, the percent of total COVID-19 tests that are positive, the number of COVID-19 associated hospitalizations, and the number of daily deaths attributable to COVID-19 remain at troublingly elevated levels; and

**WHEREAS**, while the recent changes to the above metrics may provide cause for optimism in the ongoing battle against the virus, the impacts of a new variant of COVID-19, recently detected in North Carolina, remain yet unseen; and

**WHEREAS**, COVID-19 continues to extract an unprecedented toll on human life in North Carolina; and

**WHEREAS**, more than seven hundred thirty-three thousand (733,000) people in North Carolina have had COVID-19, and more than eight thousand nine hundred (8,900) people in North Carolina have died from the disease; and

**WHEREAS**, as of the date of this Executive Order, the undersigned and his administration are engaged in robust vaccination efforts to distribute the state's allocated supply of FDA-authorized vaccines to North Carolinians, according to a priority order which takes into account an individual's age, their front-line exposure to the virus, and other risk factors as identified by public health experts; and

**WHEREAS**, while the undersigned has marshalled all state resources towards accelerating the state's vaccination efforts, the current supply of the vaccine, as allocated by the federal government, is not enough to meet demand, and as of the date of this Executive Order the amount of vaccines administered to North Carolinians is not enough to provide widespread immunity in the near-term; and

**WHEREAS**, until enough North Carolinians are vaccinated or otherwise become immune to this devastating disease, COVID-19 will continue to cause devastating illness and death; and

**WHEREAS**, in light of the continuing dangers posed by COVID-19, and the need for the state's vaccination efforts to continue apace, it remains necessary to continue the measures of the Modified Stay at Home Order to protect the lives of North Carolinians, to avoid further strain on the state's health care system capacity and other health care resources across the state; and

Continued Closure of Bars for Indoor Consumption

**WHEREAS**, in previous executive orders, the undersigned has ordered certain restrictions on bars, closing indoor areas for on-site consumption, but allowing for the limited operation of bars' outdoor areas, as well as enabling the sale of mixed beverages for off-premise consumption ("drinks to-go"), in an effort to provide an avenue for additional revenue for these establishments; and

**WHEREAS**, in Bars (as defined in Executive Order No. 181), 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**, regression analyses have shown that new COVID-19 infections surge after Bars are reopened, and the rate of new COVID-19 infections falls when Bars are closed; and

**WHEREAS**, moreover, a statistical analysis of University of Wisconsin students determined that a predictor of whether a dormitory would have a high infection rate was how geographically close that dormitory was to the town's collection of Bars; and

**WHEREAS**, moreover, a Washington Post study of cellphone location data determined that, following Bar reopening, the level of foot traffic in Bars had a statistically significant relationship with the level of increase in COVID-19 cases in the following weeks; and

**WHEREAS**, across the country, COVID-19 spread has been repeatedly linked to Bars, including, for example, incidents where 200 cases were linked to an East Lansing, Michigan Bar, 100 cases were linked to a Baton Rouge, Louisiana Bar outbreak, 73 cases were linked to a single Bar in St. Cloud, Minnesota, and 20 cases were linked to a Washington State karaoke Bar even though it used extensive social distancing measures; and

**WHEREAS**, an analysis of exposures among people with known COVID-19 showed that people with COVID-19 were four times as likely to have gone to a Bar than those without known COVID-19; and

**WHEREAS**, there is now emerging evidence that a new variant of the coronavirus, recently detected in North Carolina, is more transmissible and may lead to increased disease severity; and

**WHEREAS**, therefore, in light of the evidence of heightened risk for the transmission of COVID-19 posed in the indoor areas of Bars, as outlined herein and in the undersigned's previous executive orders, it remains reasonable and necessary to continue the temporary closure of Bars for indoor consumption 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 all counties but one rated at or above the next level of “substantial” (orange) 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, and for the reasons and pursuant to the authority set forth above and in Executive Order Nos. 181 and 188, **IT IS ORDERED**:

**Section 1. Extension of the Modified Stay at Home Order.**

Executive Order No. 181 (including, for avoidance of doubt, those amendments made by Executive Order No. 183 and those provisions of Executive Order No. 141 which were incorporated into, and extended by, Executive Order No. 181) shall remain in effect until 5:00 pm on February 28, 2021. The effective date provision of Executive Order No. 181 is amended to have that order continue in effect through the above-listed time and date.

**Section 2. 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 February 28, 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 3. 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 4. 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 5. 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 6. Enforcement.**

- 6.1. 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.
- 6.2. 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.
- 6.3. 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 7. Effective Date.**

This Executive Order is effective January 29, 2021, at 5:00 pm. This Executive Order shall remain in effect through 5:00 pm on February 28, 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 27<sup>th</sup> day of January in the year of our Lord two thousand and twenty-one.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

January 27, 2021

**EXECUTIVE ORDER NO. 190**

**EXTENSION OF AUTHORIZATION OF DELIVERY AND CARRY-OUT OF  
SERVICES AND PRODUCTS AS AN ALTERNATIVE TO ON-SITE CONSUMPTION  
AND RECEIPT**

**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, 180-181, 183-185, and 188-189; 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 then led the undersigned to implement further protective actions, including a more protective numerical limit on indoor gatherings, requiring Face Coverings in additional settings, requiring night-time closure to the public for certain business and activities, and directing that all North Carolinians stay at home, with exceptions, during the hours of 10:00 pm and 5:00 am every day; and



**WHEREAS**, these provisions are now part of Executive Order No. 181, as extended by Executive Orders No. 188 and 189 (the “Modified Stay at Home Order”); and

**Benefits of Take-Out and Delivery During the Pandemic**

**WHEREAS**, settings that are indoor, where people gather, remain stationary for an extended period of time, and cannot consistently wear a Face Covering have an increased risk of viral spread; and

**WHEREAS**, settings where there is increased respiratory effort — for example, conversations being held over music or background noise, singing, and dancing — increase the risk of viral spread; and

**WHEREAS**, these settings include restaurants, hotels, private clubs, private bars, and distilleries that sell mixed beverages; and

**WHEREAS**, in light of the risks of transmission presented by the sustained, maskless interactions inherent in indoor dining and drinking at restaurants, bars, and similar establishments, it reduces the risk of viral spread to allow delivery and take-out service; and

**WHEREAS**, for these reasons, restrictions should be lifted, wherever feasible and appropriate, to allow goods and services to be delivered to one’s home; and

**WHEREAS**, for these reasons, the undersigned has determined that the Secretary of the North Carolina Health and Human Services requires authority to temporarily waive the enforcement of any legal or regulatory constraints that would prevent or impair the ability of open establishments to provide curbside pickup or delivery of health care goods and services; and

**Benefits of Allowing To-Go or Delivery Sales for Mixed Beverages**

**WHEREAS**, allowing delivery of food and drinks decreases customer-to-customer interactions between people who are not members of the same household and significantly reduces customer-to-employee interactions, thereby significantly reducing the likelihood of viral spread; and

**WHEREAS**, allowing delivery of mixed beverage drinks to homes, as is done for other goods and services, can reduce this risk; and

**WHEREAS**, during the pandemic, public health will benefit if it is easier for people to gather at home, reducing the number of people coming together in bars, restaurants, hotels, private clubs, and distilleries; and

**Economic Benefits of Mixed Beverage Sales**

**WHEREAS**, under the Modified Stay at Home Order, bars and restaurants and other businesses must cease the sale and service of alcohol for on-premises consumption earlier in the evening, and these businesses must also operate at reduced capacity; and

**WHEREAS**, the sale of alcoholic beverages generates a substantial percentage of revenue for many restaurants and bars in the state; and

**WHEREAS**, bars and restaurants are currently limited in how they may sell mixed beverages, and thereby are denied a much-needed source of revenue during the COVID-19 pandemic; and

**WHEREAS**, the undersigned’s administration has taken action to alleviate the financial hardship borne by bars and restaurants in the COVID-19 pandemic, including through the implementation of grant and loan programs, and mortgage and utility relief for these impacted businesses; and



**WHEREAS**, the undersigned has determined that enabling the sale of mixed beverages for off-premise consumption ("to-go" sales) will provide an additional source of revenue for restaurants and bars in the state, that may offset any reduction in sales that may be caused by the reduced occupancy limits and limited hours of operation for these establishments under the Modified Stay at Home Order; and

**WHEREAS**, since the issuance of Executive Order No. 183, many bars have implemented to-go sales of mixed beverages and have benefitted from the additional source of revenue afforded by that order; and

**WHEREAS**, for the reasons stated herein and in Executive Order No. 183, the undersigned finds it reasonable and necessary to continue the measures of Executive Order No. 183 through March 31, 2021; and

Flexibility for the North Carolina Alcoholic Beverage Control Commission to Permit To-Go Sales of Mixed Beverages

**WHEREAS**, the undersigned has determined that it is in the best interests of all North Carolinians to have additional goods and services available via home delivery or to-go orders; and

**WHEREAS**, enabling these channels to sell mixed beverages may reduce crowding in bars, restaurants, and other open establishments, especially during the winter months when more patrons must necessarily move indoors; and

**WHEREAS**, the undersigned has determined that by opening up these additional channels of commerce, crowds may be limited in open establishments, abating a need that otherwise might arise to increase restrictions on bars, restaurants, and other similar businesses; and

**WHEREAS**, the North Carolina Alcoholic Beverage Control Commission ("ABC Commission") is charged under state law with regulating the access and availability of beer, wine, and mixed beverages; and

**WHEREAS**, the ABC Commission has the requisite experience and ability to monitor the sale, service, and distribution of alcoholic beverages in the state; and

**WHEREAS**, accordingly, the ABC Commission is best equipped to devise and implement all necessary terms and conditions to ensure that bars and restaurants engage in the sale of mixed beverages to-go in a safe and effective manner; and

**WHEREAS**, for the reasons stated above, the undersigned has determined that the Chair of the ABC Commission should have authority to temporarily waive the enforcement of any legal or regulatory constraints that would prevent or impair the sale of mixed beverages for off-premise consumption; and

**WHEREAS**, for avoidance of doubt, the terms of this Executive Order and the delegation of authority to the Chair of the ABC Commission herein do not permit unsealed containers of alcoholic beverages in vehicles, and do not permit the sale of mixed beverages to any individual who is under the age of twenty-one (21) or to any individual who is visibly intoxicated; 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-19.30(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**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(2), the undersigned, with the concurrence of the Council of State, may establish a system of economic controls over all resources, materials, and services, including shelter and rents; and

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

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with concurrence of the Council of State, may perform and exercise such other powers, functions, and duties as are necessary to promote the safety and protection of the civilian population; and

**WHEREAS**, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons stated above and in Executive Order No. 183, **IT IS ORDERED**:

**Section 1. Extension of Executive Order No. 183.**

Executive Order No. 183 shall remain in effect until 5:00 pm on March 31, 2021. The effective date provision of Executive Order No. 183 is amended to have that order continue in effect through the above-listed time and date.

**Section 2. 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 3. 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 4. 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 5. Enforcement.**

- A. 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.
- B. 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.
- C. This Executive Order does not limit Alcohol Law Enforcement's existing authority to take any action necessary (criminal or administrative through the ABC Commission) to enforce the provisions of this Executive Order or any waivers or modifications for sales and deliveries of alcoholic beverages prescribed by the ABC Commission.
- D. 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).

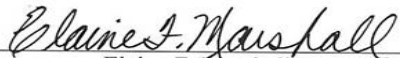
**Section 6. Effective Date.**

This Executive Order is effective January 31, 2021, at 5:00 pm. This Executive Order shall remain in effect through March 31, 2021 at 5:00 pm. 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 27<sup>th</sup> day of January in the year of our Lord two thousand and twenty one.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

January 27, 2021

**EXECUTIVE ORDER NO. 191**

**EXTENDING ASSISTANCE FOR NORTH CAROLINIANS AT RISK OF EVICTION  
AND EXTENDING PROCESSES TO EXPEDITE PAYMENT OF UNEMPLOYMENT  
INSURANCE CLAIMS**

The COVID-19 Public Health Emergency

**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 and 169-177, 180-181, 183-185, and 188-190; 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 then led the undersigned to implement further public health measures, including a more protective numerical limit on indoor gatherings, requiring Face Coverings in additional settings, requiring night-time closure to the public for certain businesses and activities, and directing that all North Carolinians stay at home, with exceptions, between the hours of 10:00 pm and 5:00 am every day; and

**WHEREAS**, these provisions are now part of Executive Order No. 181, as extended by Executive Order Nos. 188 and 189 (the “Modified Stay at Home Order”); and

**WHEREAS**, over recent days in North Carolina, due to the measures taken to-date by the undersigned and due to the resilience and persistence of all North Carolinians, there have been modest improvements in some of the state’s key COVID-19 metrics, relative to recent weeks; and

**WHEREAS**, specifically, as of the date of this Executive Order, the state is experiencing a sustained leveling of COVID-19 daily diagnoses, and a sustained slight decline in the percent of total COVID-19 tests that are positives and the number of COVID-19-associated hospitalizations relative to its peak a few weeks earlier; and

**WHEREAS**, despite these modest and recent improvements to certain of the state’s key COVID-19 metrics relative to recent weeks, COVID-19 remains a serious threat to North Carolina communities, as evidenced by the fact that between January 3, 2021 and January 16, 2021, ninety-nine of North Carolina’s one hundred 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**, despite the modest and recent improvements to certain of the state’s key COVID-19 metrics relative to recent weeks, the number of daily COVID-19 cases, the percent of total COVID-19 tests that are positive, the number of COVID-19 associated hospitalizations, and the number of daily deaths attributable to COVID-19 remain at troublingly elevated levels; and

**WHEREAS**, while the recent changes to the above metrics may provide cause for optimism in the ongoing battle against the virus, the impacts of a new variant of COVID-19, recently detected in North Carolina, remain yet unseen; and

**WHEREAS**, COVID-19 continues to extract an unprecedented toll on human life in North Carolina; and

**WHEREAS**, more than seven hundred thirty-three thousand (733,000) people in North Carolina have had COVID-19, and more than eight thousand nine hundred (8,900) people in North Carolina have died from the disease; and

**WHEREAS**, in light of the continuing dangers posed by COVID-19, it remains necessary to continue the measures of the residential evictions moratorium 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

Residential Eviction Protection in North Carolina; the Centers for Disease Control and Prevention Order; and Executive Order No. 171

**WHEREAS**, in addition to its public health consequences, the economic effects of the COVID-19 pandemic continue to broadly impact residential tenants across the country and in the state of North Carolina, many of whom have been unable to timely or fully make their rent payments, thereby facing the risk of eviction; and

**WHEREAS**, residential evictions remove people from their homes, where they are safest during the COVID-19 pandemic, which therefore increases the risk that such people will contract and spread COVID-19; and

**WHEREAS**, many residential evictions leave people homeless, where they are at heightened risk of contracting and spreading COVID-19 either through unsheltered living situations or through relocation to homeless shelters or other congregate living situations, where they face enhanced risk of contracting COVID-19; and

**WHEREAS**, in recognition of the public health threat posed by residential evictions during the pandemic, the Centers for Disease Control and Prevention issued an order, pursuant to 42

U.S.C. § 264 of the Public Health Act and 42 C.F.R. § 70.2, and titled “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19,” temporarily halting certain residential evictions nationwide, beginning on September 4, 2020 (the “CDC Order”); and

**WHEREAS**, on December 27, 2020, the President signed the Consolidated Appropriations Act, 2021, H.R. 133, 116<sup>th</sup> Cong. (2020), which extends the CDC Order through January 31, 2021; and

**WHEREAS**, at the request of the President, on January 20, 2021 the CDC issued a media statement from Director Rochelle Walensky, announcing that the CDC would extend its order until at least March 31, 2021; and

**WHEREAS**, to reaffirm and clarify the protections established by the CDC Order and to ensure accurate and consistent application of the CDC Order across the state, the undersigned issued Executive Order No. 171 to further protect North Carolinians at risk of eviction, from October 30, 2020 through the CDC Order’s original termination date of December 31, 2020; and

**WHEREAS**, the undersigned, with the concurrence of the Council of State, issued Executive Order No. 184, which extended Executive Order No. 171 through January 31, 2021; and

**WHEREAS**, the CDC Order and Executive Order No. 171 do not block evictions of residential tenants for reasons other than nonpayment of rent, interest, late fees, or penalties; and

**WHEREAS**, the CDC Order and Executive Order No. 171 do not relieve any residential tenant from the obligation to pay rent, make housing payments, or comply with any other obligation that the tenant may have under a tenancy, lease or contract, and these orders do not protect tenants from eviction for reasons of criminal activity, threatening the health or safety of other tenants, or violating building codes or other ordinances; and

**WHEREAS**, to ensure the effective execution of the CDC Order, Executive Order No. 171 requires, among other measures, that a landlord provide his or her tenant with a copy of the declaration form required under the CDC Order (the “Declaration”) prior to commencing an eviction action and provide the court with a copy of that Declaration; and

**WHEREAS**, Executive Order No. 171 provides for the modification of residential leases to effectuate certain procedures in the event a tenant’s Declaration is filed with the court, and in the event the landlord decides to contest that Declaration; and

**WHEREAS**, Executive Order No. 171 also extends certain protections to individuals applying for assistance through the statewide Housing Opportunities and Prevention of Evictions Program (“HOPE Program”) who have met the eligibility criteria for assistance under that program but who have not yet received protection from eviction by way of the final stage of that program; and

Need to Extend Executive Order No. 171

**WHEREAS**, according to the United States Census Bureau’s Household Pulse Survey (“Pulse Survey”) released on January 6, 2021, from data collected December 9, 2020 through December 21, 2020, nearly 89.7 million adults reported that their household found it somewhat difficult or very difficult to cover usual expenses, including rent or mortgage, food, car payments, medical expenses, or student loans; and

**WHEREAS**, data from the Pulse Survey shows that an estimated 10.1 million adult renters reported that they were not caught up on rent; and

**WHEREAS**, according to the Center on Budget and Policy Priorities’ analysis of the Pulse Survey, the hardship is particularly more taxing on families with children, in that 45 percent of adults with children reported difficulties covering usual household expenses and 26 percent of adults with children reported that they are not caught up on last month’s rent; and

**WHEREAS**, many North Carolina households are experiencing the economic hardships felt nationwide; and

**WHEREAS**, for example, since the HOPE program became effective in North Carolina, over 41,000 individuals have applied, and of those, 34,300 individuals have received an award through the program, underscoring the significant need for rental assistance and eviction protection across the state during the pandemic; and

**WHEREAS**, studies indicate that the spread of COVID-19 rises as a result of residential evictions, which cause people to have to leave their homes and have more contact with others; and

**WHEREAS**, according to the Pulse Survey data, collected from December 9, 2020 through December 21, 2020, in North Carolina an estimated 277,388 adults in rental housing reported that they are not caught up on rent; and

**WHEREAS**, according to the Pulse Survey data, collected from December 9, 2020 through December 21, 2020, in North Carolina an estimated 2.7 million adults reported difficulty in covering usual household expenses; and

**WHEREAS**, continuing eviction protections is necessary to prevent additional COVID-19 cases and deaths; and

**WHEREAS**, the undersigned's administration recognizes that eviction moratoria are not only effective public health measures to control the spread of COVID-19, but that they can also have significant impacts on the economic and socioeconomic realities of many North Carolinians; and

**WHEREAS**, in light of the extension of the CDC Order nationwide, the troubling COVID-19 metrics across the state, and the need for North Carolinians to have a safe and stable place to live during the duration of the Modified Stay at Home Order, the undersigned finds it reasonable and necessary to continue the protections of Executive Order No. 171 under this Executive Order to protect the neediest North Carolinians from housing loss and housing insecurity; and

**WHEREAS**, the restrictions on evictions extended in this Executive Order shall extend only during the term set out in Executive Order No. 171, as extended by this Executive Order; and

**Expediting Processing of Unemployment Insurance Claims**

**WHEREAS**, on March 17, 2020, with the concurrence of the Council of State, the undersigned issued Executive Order No. 118, which broadened unemployment insurance benefits availability in response to COVID-19; and

**WHEREAS**, since that date, the Division of Employment Security ("Division") has received over 3,268,000 claims; and

**WHEREAS**, to timely process this unprecedented volume of claims, the Division must explore all measures available to expedite the claims process and get relief to North Carolinians; and

**WHEREAS**, N.C. Gen. Stat. § 96-15(a1) provides a mechanism, in the case of partial unemployment, for employers to submit claims on behalf of their employees through the use of an automated process (the "attached claim" process); and

**WHEREAS**, the attached claim process is ordinarily available only for six (6) weeks of benefits, is ordinarily available for use with respect to an employee only once during a benefit year, is ordinarily available only for an employer which has a positive credit balance in its account, and ordinarily is available only for an employer which immediately pays the Division of Employment Security an amount equal to the full cost of unemployment benefits payable to the employee at the time the claim is filed; and



**WHEREAS**, to coordinate with the additional unemployment benefits authorized by the federal government during the emergency, the undersigned determined that expanding availability of the attached claim process would allow more employers to submit claims for their employees, leading to faster automated processing and unemployment insurance funds arriving sooner in the hands of North Carolinians in need; and

**WHEREAS**, on April 9, 2020, the undersigned issued Executive Order No. 131, which provided in part that if the North Carolina Department of Commerce determined that it would significantly speed the processing of unemployment insurance claims and ease the administrative burden on the Division of Employment Security, said Division could delay the enforcement of the requirements of N.C. Gen. Stat. § 96-15(a1) to the extent necessary to expedite the distribution of unemployment insurance benefits; and

**WHEREAS**, on May 2, 2020, in Session Law 2020-3, the North Carolina General Assembly enacted N.C. Gen. Stat. § 96-14.15, which was consistent with the attached claim process changes found in Executive Order No. 131; and

**WHEREAS**, Session Law 2020-3 provided that N.C. Gen. Stat. § 96-14.15 would automatically expire at the end of the State of Emergency or on December 31, 2020, whichever came first; and

**WHEREAS**, on December 27, 2020, the President signed H.R. 133, providing for the continuation of additional unemployment insurance benefits into the first quarter of 2021; and

**WHEREAS**, on December 30, 2020, the undersigned, with concurrence of the Council of State, issued Executive Order No. 184, which authorized the North Carolina Department of Commerce to delay enforcement of the attached claim process if necessary to assist in processing unemployment insurance claims through January 31, 2021; and

**WHEREAS**, in light of the additional unemployment insurance benefits now authorized by the President for 2021, and in light of the continued and unprecedented number of unemployment insurance claims, the advantages gained by allowing employers to file attached claims for their employees without the restrictions imposed by N.C. Gen. Stat. § 96-15(a1) continue to be meaningful and provide for distribution in a more timely manner; and

**WHEREAS**, the undersigned has therefore determined that to cooperate and coordinate with the President's extension of benefits into 2021, to allow the General Assembly time to consider whether to extend N.C. Gen. Stat. § 96-14.15 into 2021, and in order to continue expediting the processing of unemployment insurance claims, the measures in Executive Order No. 131 on expediting unemployment insurance claims" should be reissued for unemployment insurance claims filed for periods beginning on or after December 31, 2020; 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 any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(4), the undersigned is authorized to "cooperate and coordinate" with the President of the United States and the heads of department and other agencies of the federal government; and



**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7), the undersigned is authorized and empowered to utilize the services, equipment, supplies, and facilities of political subdivisions, and their officers and personnel are required to cooperate with and extend such services and facilities to the undersigned upon request; 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), during a Gubernatorially declared State of Emergency, the undersigned has the power to “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 this Article”; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(3), the undersigned may take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(2), the undersigned, with the concurrence of the Council of State, may establish a system of economic controls over all resources, materials, and services, including shelter and rents; and

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

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.10(b)(3) further 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**, the undersigned has sought and obtained concurrence from the Council of State on those provisions of this Executive Order requiring concurrence consistent with the Governor’s emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority set forth above and in Executive Order Nos. 171 and 184, **IT IS ORDERED:**

**Section 1. Extension of Executive Order No. 171 - Assisting North Carolinians at Risk of Eviction.**

Executive Order No. 171, as amended by Executive Order No. 184, shall remain in effect through and including March 31, 2021. The effective date provision of Executive Order No. 171 is amended to continue in effect through the above-listed date.

**Section 2. Extension of Executive Order No. 184 - Extending Assistance for North Carolinians at Risk of Eviction and Reinstating Processes to Expedite Payment of Unemployment Insurance Claims.**

Executive Order No. 184 shall remain in effect through and including March 31, 2021. The effective date provisions of Executive Order No. 184 are amended to continue in effect through the above-listed date. For avoidance of doubt, Section 2(D) of Executive Order No. 184 shall be amended and restated as follows:

“This Section of this Executive Order is effective December 31, 2020, and shall remain in effect through and including March 31, 2021, unless repealed, replaced, or rescinded by another Executive Order, or unless a law is passed that codifies this Executive Order. An Executive Order rescinding the Declaration of the State of Emergency shall automatically rescind this Section.”

**Section 3. 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 4. Savings Clause and Interpretation.**

- A. 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.
- B. The protections stated in this Executive Order are independent from the requirements of the CDC Order and shall be in force regardless of any repeal, rescission, amendment, or administrative interpretation of the CDC Order. If any court without jurisdiction over the State of North Carolina enjoins or otherwise blocks or modifies the CDC Order, in whole or in part, this Executive Order shall continue to apply, and this Executive Order shall continue to provide the protections listed in the CDC Order.

**Section 5. 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 6. Enforcement.**

- A. 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.
- B. 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.
- C. 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 7. Effective Date.**

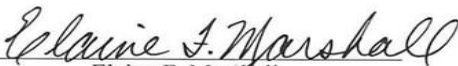
Unless otherwise expressly stated herein or in another Executive Order, this Executive Order shall be in effect at the beginning of the day on January 31, 2021 and remain in effect through and including March 31, 2021, unless repealed, replaced, or rescinded by another applicable Executive Order. An 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 27<sup>th</sup> day of January in the year of our Lord two thousand and twenty-one.



Roy Cooper  
Governor

ATTEST:



Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

January 27, 2021

## EXECUTIVE ORDER NO. 192

### REISSUE CERTAIN TRANSPORTATION-RELATED PROVISIONS IN PREVIOUS EXECUTIVE ORDERS

**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 to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); 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 declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

**WHEREAS**, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq.* and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; and

**WHEREAS**, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, 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 purposes 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, 180-181, 183-185 and 188-191; and

**WHEREAS**, more than seven hundred thirty-three thousand (733,000) people in North Carolina have had COVID-19, and more than eight thousand nine hundred (8,900) people in North Carolina have died from the disease; and

**WHEREAS**, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities may be insufficient to care for those who become sick; and

**WHEREAS**, slowing the community spread of COVID-19 is critical to ensuring that our healthcare facilities remain able to accommodate those who require intensive medical intervention; and

**WHEREAS**, the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum gas to residential and commercial establishments is an essential need of the public during the wintertime, and any interruption in the delivery of those fuels threatens the public welfare; and

**WHEREAS**, Executive Order No. 116, issued on March 10, 2020, included certain suspensions of Federal Motor Carrier Safety Regulations; and

**WHEREAS**, on December 1, 2020, the Federal Motor Carrier Safety Administration ("FMCSA") issued the Extension of Expanded Emergency Declaration No. 2020-002 to provide regulatory relief for commercial motor vehicle operations that provide direct assistance in support of emergency relief efforts related to COVID-19; and

**WHEREAS**, the undersigned has determined that the Executive Order needs to remain in place to allow for the continued expedited movement of vehicles in the state; and

**WHEREAS**, Executive Order No. 119, issued on March 20, 2020, the undersigned facilitated critical motor vehicle operations; and

**WHEREAS**, Executive Order No. 164, issued on September 14, 2020, extended the transportation related provisions in Executive Order Nos. 116, 119, 133, 140, 146, 150, 157; and

**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 any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.70(b), allows for the undersigned to declare by executive order that the health, safety, or economic well-being of persons or property in this state require that the maximum hours of service prescribed by the Department of Public Safety pursuant to N.C. Gen Stat. § 20-381 and similar rules be waived for persons transporting essentials or assisting in the restoration of utility services.

**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. Reissuance and technical amendments**

For the reasons and pursuant to the authority set forth above and set forth in the relevant Executive Orders referenced below, the undersigned orders as follows:

**A. Executive Order Nos. 116 and 119.**

1. Sections 3, 5 and 5.5 of Executive Order No. 119 (which were extended by Executive Order Nos. 133, 140, 146, 150, 157, and 164) are hereby reissued through February 28, 2021.

2. Section 4 of Executive Order 119 (which was extended by Executive Order Nos. 133, 140, 146, 150, 157, and 164) is hereby terminated.
3. Section 5 of Executive Order No. 116 (which was amended by Section 6 of Executive Order No. 119, Section 1 of Executive Order No. 146, Section 1 of Executive Order No. 150 and Section 1 of Executive Order No. 157 and extended by Executive Order Nos. 133, 140, 146; 150, 157, and 164) is reissued pursuant to N.C. Gen. Stat. § 166A-19.70(b) through February 28, 2021.

Section 5 of Executive Order No. 116 is amended as follows:

In order to ensure adequacy and location of supplies and resources to respond to COVID-19, DPS, in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381 subject to the restrictions and limitations in this Executive Order, if the driver is transporting medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19; vaccines, constituent products, and medical supplies and equipment including ancillary supplies/kits for the administration of vaccines, related to the prevention of COVID-19; and supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19, such as masks, gloves, hand sanitizer, soaps and disinfectants, essential fuels such as fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum gas to residential and commercial establishments, food, water, livestock, poultry, feed for livestock and poultry and other supplies and equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19, through the duration of the State of Emergency or until further notice.

4. This Executive Order does not amend the sixty (60) day postponement of DMV-related hearings established in Section 3.f of Executive Order No. 119.
5. The first sentence of Section 8 of Executive Order No. 119 is amended to read:

"This Executive Order is effective immediately and shall remain in effect until the end of the calendar day on February 28, 2021, or until rescinded or superseded by another applicable Executive Order."

**B. Miscellaneous provisions.** For avoidance of doubt:

1. Future Executive Orders may extend the term of the restrictions, delegations, and requirements listed above.
2. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

**Section 2. 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 3. Effective Date**

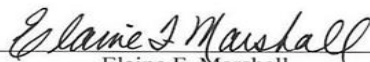
This Executive Order is effective retroactively beginning January 1, 2021. This Executive Order shall remain in effect until February 28, 2021 unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 27<sup>th</sup> day of January in the year of our Lord two thousand and twenty-one.



Roy Cooper  
Governor

ATTEST:



Elaine F. Marshall  
Secretary of State



North Carolina Department of Labor  
Division of Occupational Safety and Health  
1101 Mail Service Center  
Raleigh, NC 27699-1101

(919) 707-7806

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NOTICE OF VERBATIM ADOPTION OF FEDERAL STANDARDS

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In consideration of G.S. 150B-21.5(c) the Occupational Safety and Health Division of the Department of Labor hereby gives notice that:

- Rule changes have been submitted to update the *North Carolina Administrative Code* at 13 NCAC 07F .0201 and 13 NCAC 07F .0501, to incorporate by reference the occupational safety and health related provisions of Title 29 of the *Code of Federal Regulations* Parts 1926 and 1915 promulgated as of August 31, 2020, except as specifically described, and
- The *North Carolina Administrative Code* at 13 NCAC 07A .0301 automatically adopts subsequent amendments to certain parts of the *Code of Federal Regulations*, but Parts 1915 and 1926 are not included.

This update encompasses the following recent verbatim adoption:

- Occupational Safety and Health Standards, 29 CFR amendments to § 1926 and 1915 – Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors (85 FR 53910, August 31, 2020).

The final rule, published in the Federal Register on August 31, 2020 (85 FR 53910), amends its existing construction and shipyard standards for occupational exposure to beryllium and beryllium compounds to clarify certain provisions and simplify or improve compliance. OSHA's final rule was effective September 30, 2020.

For additional information, please contact:

Bureau of Education, Training and Technical Assistance  
Occupational Safety and Health Division  
North Carolina Department of Labor  
1101 Mail Service Center  
Raleigh, North Carolina 27699-1101

For additional information regarding North Carolina's process of adopting federal OSHA Standards verbatim, please contact:

Jill F. Cramer, Agency Rulemaking Coordinator  
North Carolina Department of Labor  
Legal Affairs Division  
1101 Mail Service Center  
Raleigh, North Carolina 27699-1101



**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 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

**Notice** is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to adopt the rules cited as 15A NCAC 18E .0101-.0105, .0201-.0207, .0301-.0305, .0401-.0403, .0501-.0510, .0601, .0602, .0701-.0703, .0801-.0805, .0901-.0911, .1001, .1002, .1101-.1106, .1201-.1206, .1301-.1307, .1401-.1406, .1501-.1505, .1601-.1603, .1701-.1713 and repeal the rules cited as 15A NCAC 18A .1934, .1935, .1937-.1962, and .1964-.1971.

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

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

### Proposed Effective Date:

15A NCAC 18E .0401-.0403, .0508, .1301, and .1708 - Subject to Legislative Review  
15A NCAC 18A .1934, .1935, .1937-.1962, .1964-.1971; 18E .0101-.0105, .0201-.0207, .0301-.0305, .0501-.0507, .0509, .0510, .0601, .0602, .0701-.0703, .0801-.0805, .0901-.0911, .1001, .1002, .1101-.1106, .1201-.1206, .1302-.1307, .1401-.1406, .1501-.1505, .1601-.1603, .1701-.1707, .1709-.1713 – July 1, 2021

### Public Hearing:

**Date:** April 7, 2021

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

**Location:** This public hearing will be held by teleconference at (919) 715-0769 (no access code)

**Reason for Proposed Action:** The on-site wastewater treatment system rules have not been updated as a complete package since 1990. In the intervening 31 years, the industry has seen many technological advances, terminology has been standardized, and practical knowledge has been enhanced. For that reason, this rulemaking effort proposes to repeal the existing rules in 15A NCAC 18A Section .1900 and replace them with a new set of rules to be codified in 15A NCAC 18E. The new proposed rules update, clarify, and align the state's on-site wastewater rules with current practice and law, facilitate innovation, standardize terminology, and improve organization and consistency of application across the state.

**Comments may be submitted to:** Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email [cphcomment@lists.ncmail.net](mailto:cphcomment@lists.ncmail.net)

**Comment period ends:** April 30, 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. If the Rules Review Commission receives written and signed objections 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 email. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Rule(s) is automatically subject to legislative review. Cite statutory reference:** SL 2015-147 s.1 (15A NCAC 18E .0508); SL 2015-147 s.2 (15A NCAC 18E .1301); SL 2014-120 s.47 (15A NCAC 18E .1708); SL 2013-413, s.34 and SL 2014-120 s.53 (15A NCAC 18E .0401, .0402, .0403)

**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 18 - ENVIRONMENTAL HEALTH

### SUBCHAPTER 18A - SANITATION

#### SECTION .1900 - SEWAGE TREATMENT AND DISPOSAL SYSTEMS

##### 15A NCAC 18A .1934 SCOPE

Authority G.S. 130A-335(e).

##### 15A NCAC 18A .1935 DEFINITIONS

Authority G.S. 130A-335(e) and (f).

**15A NCAC 18A .1937 PERMITS**

*Authority G.S. 130A-335(e),(f).*

**15A NCAC 18A .1938 RESPONSIBILITIES**

*Authority G.S. 89C; 89E; 89F; 90A; 130A-335(e),(f).*

**15A NCAC 18A .1939 SITE EVALUATION**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1940 TOPOGRAPHY AND  
LANDSCAPE POSITION**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1941 SOIL CHARACTERISTICS  
(MORPHOLOGY)**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1942 SOIL WETNESS CONDITIONS**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1943 SOIL DEPTH**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1944 RESTRICTIVE HORIZONS**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1945 AVAILABLE SPACE**

*Authority G.S. 130A-335(e) and (f).*

**15A NCAC 18A .1946 OTHER APPLICABLE  
FACTORS**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1947 DETERMINATION OF  
OVERALL SITE SUITABILITY**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1948 SITE CLASSIFICATION**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1949 SEWAGE FLOW RATES FOR  
DESIGN UNITS**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1950 LOCATION OF SANITARY  
SEWAGE SYSTEMS**

*Authority G.S. 130A-335(e) and (f).*

**15A NCAC 18A .1951 APPLICABILITY OF RULES**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1952 SEPTIC TANK, EFFLUENT  
FILTER, DOSING TANK AND LIFT STATION DESIGN**

*Authority G.S. 130A-335 (e)(f)(f1)[2nd].*

**15A NCAC 18A .1953 PREFABRICATED SEPTIC  
TANKS AND PUMP TANKS**

*Authority G.S. 130A-335 (e)(f)(f1)[2nd].*

**15A NCAC 18A .1954 MINIMUM STANDARDS FOR  
PRECAST REINFORCED CONCRETE TANKS**

*Authority G.S. 130A-335 (e)(f)(f1)[2nd].*

**15A NCAC 18A .1955 DESIGN INSTALLATION  
CRITERIA FOR CONVENTIONAL SEWAGE SYSTEMS**

*Authority G.S. 130A-335 (e)(f)(f1)[2nd].*

**15A NCAC 18A .1956 MODIFICATIONS TO SEPTIC  
TANK SYSTEMS**

*Authority G.S. 130A-335(e) and (f).*

**15A NCAC 18A .1957 CRITERIA FOR DESIGN OF  
ALTERNATIVE SEWAGE SYSTEMS**

*Authority G.S. 130A-335(e),(f); 130A-342.*

**15A NCAC 18A .1958 NON-GROUND ABSORPTION  
SEWAGE TREATMENT SYSTEMS**

*Authority G.S. 89C; 89E; 89F; 90A; 130A-335.*

**15A NCAC 18A .1959 PRIVY CONSTRUCTION**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1960 MAINTENANCE OF PRIVIES**

*Authority G.S. 130A-335(e) and (f).*

**15A NCAC 18A .1961 MAINTENANCE OF SEWAGE  
SYSTEMS**

*History Note: Authority G.S. 130A-335(e),(f);  
Filed as a Temporary Amendment Eff. June 30, 1990, for a period  
of 180 days to expire on December 27, 1990;  
Eff. July 1, 1982;*

*Amended Eff. August 1, 1991; October 1, 1990; January 1, 1990; August 1, 1988;  
Temporary Amendment Eff. January 20, 1997;  
Amended Eff. August 1, 1998.*

**15A NCAC 18A .1962 APPLICABILITY**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1964 INTERPRETATION AND TECHNICAL ASSISTANCE**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1965 APPEALS PROCEDURE**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1966 SEVERABILITY**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1967 INJUNCTIONS**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1968 PENALTIES**

*Authority G.S. 130A-335(e).*

**15A NCAC 18A .1969 APPROVAL AND PERMITTING OF ON-SITE SUBSURFACE WASTEWATER SYSTEMS, TECHNOLOGIES, COMPONENTS, OR DEVICES**

*Authority G.S. 130A-335(e),(f); 130A-343.*

**15A NCAC 18A .1970 ADVANCED WASTEWATER PRETREATMENT SYSTEM**

*Authority G.S. 130A-334; 130A-335; 130A-336; 130A-337; 130A-340; 130A-342; 130A-343.*

**15A NCAC 18A .1971 ENGINEERED OPTION PERMIT**

*Authority G.S. 130A-335; 130A-336.1.*

**SUBCHAPTER 18E – WASTEWATER TREATMENT AND DISPERSAL SYSTEMS**

**SECTION .0100 – GENERAL**

**15A NCAC 18E .0101 SCOPE**

The rules contained in this Subchapter shall govern wastewater treatment and dispersal from wastewater systems, as defined in G.S. 130A-334(15), serving single or multiple-family residences, places of business, or places of public assembly. The wastewater system shall be designed to prevent the discharge of effluent to the land surface, surface waters, or into groundwater, except as allowed when used in conjunction with an RCW system as set forth in Rule .1002 of this Subchapter.

*Authority G.S. 130A-333; 130A-334(15); 130A-335(a), (b), and (e).*

**15A NCAC 18E .0102 APPLICABILITY**

(a) The rules of this Subchapter shall not apply to wastewater systems in use prior to July 1, 1977, unless the DDF or wastewater strength increases.

(b) Prior to any increase in DDF or wastewater strength for an existing facility, the owner shall submit an application in accordance with Rule .0202 of this Subchapter.

(c) Notwithstanding Paragraph (a) of this Rule, all wastewater systems shall comply with Section .1300 of this Subchapter.

*Authority G.S. 130A-335(e).*

**15A NCAC 18E .0103 INCORPORATION BY REFERENCE**

For this Subchapter, the following rules, standards, and other materials are hereby incorporated by reference, including any subsequent amendments and editions. Table I lists the agency, document title, contact information, and terms for access to referenced documents.

**Table I: Rules, standards, and other materials incorporated by reference**

USDA-NRCS	
<u>Soil Survey Laboratory Information Manual, Soil Survey Investigations Report No. 45</u>	Available at no charge at: <a href="http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/ref/">http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/ref/</a>
<u>Kellogg Soil Survey Laboratory Methods Manual, Soil Survey Investigation Report No. 42</u>	Available at no charge at: <a href="http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/ref/">http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/ref/</a>
<u>Field Book for Describing and Sampling Soils</u>	Available at no charge at: <a href="http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/ref/copy">http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/ref/copy</a> or U. S. Government Publishing Office, P. O. Box 979050, St. Louis, MO, 63197-9000
<u>Guide to Soil Texture by Feel, Journal of Agronomic Education</u>	Available at no charge at: <a href="http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/edu/?cid=nrcs142p2_054311">http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/edu/?cid=nrcs142p2_054311</a>

**PROPOSED RULES**

<u>National Engineering Handbook, Part 624 (Drainage), Chapter 10 (Water Table Control); Part 630 (Hydrology), Chapter 18; Part 650 (Engineering Field Handbook), Chapter 14 (Water Management, Drainage)</u>	<u>Available at no charge at:</u> <u><a href="http://www.nrcs.usda.gov/wps/portal/nrcs/detail/mi/technical/engineering">http://www.nrcs.usda.gov/wps/portal/nrcs/detail/mi/technical/engineering</a></u>
<u>National Electrical Manufacturers Association</u> <u>1300 North 17<sup>th</sup> Street, Suite 900, Arlington, VA 22209</u> <u><a href="http://www.nema.org">www.nema.org</a></u>	
<u>Standard 250 – Enclosures for Electrical Equipment</u>	<u>One hundred twenty four dollars (\$124.00)</u>
<u>U. S. Environmental Protection Agency (EPA)</u> <u>U. S. EPA/NSCEP</u> <u>P. O. Box 42419, Cincinnati, OH 45242-0419</u>	
<u>Method 9080 – Cation Exchange Capacity of Soils</u>	<u>Available at no charge at:</u> <u><a href="https://www.epa.gov/hw-sw846/sw-846-test-method-9080-cation-exchange-capacity-soils-ammonium-acetate">https://www.epa.gov/hw-sw846/sw-846-test-method-9080-cation-exchange-capacity-soils-ammonium-acetate</a></u>
<u>ASTM International</u> <u>100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19438-2959</u> <u><a href="http://www.astm.org">http://www.astm.org</a></u>	
<u>C564 – Standard Specifications for Rubber Gaskets for Cast Iron Soil Pipe and Fittings</u>	<u>Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling</u>
<u>C890 – Standard Practice for Minimum Structural Design Loading for Monolithic or Sectional Precast Concrete Water and Wastewater Structures</u>	<u>Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>
<u>C923 – Standard Specifications for Resilient Connectors Between Reinforced Concrete Manhole Structures, Pipes, and Laterals</u>	<u>Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling</u>
<u>C990 – Standard Specifications for Joints for Concrete Pipe, Manholes, and Precast Box Sections Using Preformed Flexible Joint Sealants</u>	<u>Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling</u>
<u>C1644 – Standard Specification for Resilient Connectors Between Reinforced Concrete On-Site Wastewater Tanks and Pipes</u>	<u>Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>
<u>D448 – Standard Classification for Sizes of Aggregate for Road and Bridge Construction</u>	<u>Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling</u>
<u>D1784 – Standard Specification for Rigid Poly (Vinyl Chloride)(PVC) Compounds and Chlorinated Poly (Vinyl Chloride)(CPVC) Compounds</u>	<u>Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling</u>
<u>D1785 – Standard Specifications for Poly (Vinyl Chloride)(PVC) Plastic Pipe, Schedules 40, 80, and 120</u>	<u>Fifty eight dollars (\$58.00) plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>
<u>D2241 – Standard Specification for Poly (Vinyl Chloride)(PVC) Pressure-Rated Pipe (SDR Series)</u>	<u>Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>
<u>D2466 – Standard Specification for Poly (Vinyl Chloride)(PVC) Plastic Pipe Fittings, Schedule 40</u>	<u>Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>
<u>D2564 – Standard Specification for Solvent Cements for Poly (Vinyl Chloride)(PVC) Plastic Piping Systems</u>	<u>Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>

**PROPOSED RULES**

<u>D2729 – Standard Specification for Poly (Vinyl Chloride)(PVC) Sewer Pipe and Fittings</u>	<u>Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>
<u>D2774 – Standard Practice for Underground Installation of Thermoplastic Pressure Piping</u>	<u>Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>
<u>D3034 – Standard Specification for Type PSM Poly (Vinyl Chloride)(PVC) Sewer Pipe and Fittings</u>	<u>Fifty eight dollars (\$58.00) plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>
<u>D6913 – Standard Test Methods for Particle-Size Distribution (Gradation) of Soils Using Sieve Analysis</u>	<u>Seventy five dollars (\$75.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>
<u>D7928 – Standard Test Method for Particle-Size Distribution (Gradation) of Fine-Grained Soils Using the Sedimentation (Hydrometer) Analysis</u>	<u>Seventy five dollars (\$75.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>
<u>F667 – Standard Specification for 3 through 24 in. Corrugated Polyethylene Pipe and Fittings</u>	<u>Fifty two dollars (\$52.00) each plus fourteen dollars and seventy one cents (\$14.71) shipping and handling</u>
<u>F810 – Standard Specification for Smoothwall Polyethylene (PE) Pipe for Use in Drainage and Waste Disposal Absorption Fields</u>	<u>Forty six dollars (\$46.00) each plus seven dollars and forty four cents (\$7.44) shipping and handling</u>
<u>North Carolina Administrative Code</u>	
<u>15A NCAC 01O – Environmental Health</u>	<u>Available at no charge at: <a href="http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2001%20-%20departmental%20rules/subchapter%20o/subchapter%20o%20rule%20s.html">http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2001%20-%20departmental%20rules/subchapter%20o/subchapter%20o%20rule%20s.html</a></u>
<u>15A NCAC 02B – Surface Water and Wetland Standards</u>	<u>Available at no charge at: <a href="http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20b/subchapter%20b%20rules.pdf">http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20b/subchapter%20b%20rules.pdf</a></u>
<u>15A NCAC 02C – Well Construction Standards</u>	<u>Available at no charge at: <a href="http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20c/subchapter%20c%20rules.pdf">http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20c/subchapter%20c%20rules.pdf</a></u>
<u>15A NCAC 02H – Procedures for Permits: Approvals</u>	<u>Available at no charge at: <a href="http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20h/15a%20ncac%2002h%20.0101.pdf">http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20h/15a%20ncac%2002h%20.0101.pdf</a></u>
<u>15A NCAC 02L – Groundwater Classification and Standards</u>	<u>Available at no charge at: <a href="http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20l/subchapter%20l%20rules.pdf">http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20l/subchapter%20l%20rules.pdf</a></u>
<u>15A NCAC 02T – Waste Not Discharged to Surface Waters</u>	<u>Available at no charge at: <a href="http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20t/subchapter%20t%20rules.pdf">http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20t/subchapter%20t%20rules.pdf</a></u>
<u>15A NCAC 02U – Reclaimed Water</u>	<u>Available at no charge at: <a href="http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20u/subchapter%20u%20rules.pdf">http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20u/subchapter%20u%20rules.pdf</a></u>

**PROPOSED RULES**

	<a href="#">%20environmental%20management/subchapter%20u/subchapter%20u%20rules.pdf</a>
<u>15A NCAC 08G – Authority: Organization: Structure: Definitions</u>	Available at no charge at: <a href="http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2008%20-%20water%20pollution%20control%20system%20operators%20certification%20commission/subchapter%20g/subchapter%20g%20rules.pdf">http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2008%20-%20water%20pollution%20control%20system%20operators%20certification%20commission/subchapter%20g/subchapter%20g%20rules.pdf</a>
<u>15A NCAC 13B – Solid Waste Management</u>	Available at no charge at: <a href="http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2013%20-%20solid%20waste%20management/subchapter%20b/subchapter%20b%20rules.pdf">http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2013%20-%20solid%20waste%20management/subchapter%20b/subchapter%20b%20rules.pdf</a>
<u>15A NCAC 18A – Sanitation</u>	Available at no charge at: <a href="http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20a/subchapter%20a%20rules.pdf">http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20a/subchapter%20a%20rules.pdf</a>
<u>15A NCAC 18C – Water Supplies</u>	Available at no charge at: <a href="http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/subchapter%20c%20rules.pdf">http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/subchapter%20c%20rules.pdf</a>
<u>NSF International</u> PO Box 130140, Ann Arbor, MI 48105 <a href="http://www.nsf.org/">http://www.nsf.org/</a>	
<u>Standard 40 – Residential Wastewater Systems</u>	<u>One hundred five dollars (\$105.00) each plus shipping and handling</u>
<u>Standard 41 – Non-Liquid Saturated Treatment Systems</u>	<u>One hundred five dollars (\$105.00) each plus shipping and handling</u>
<u>Standard 46 – Evaluation of Components and Devices Used in Wastewater Treatment Systems</u>	<u>One hundred five dollars (\$105.00) each plus shipping and handling</u>
<u>Standard 245 – Wastewater Treatment Systems – Nitrogen Reduction</u>	<u>One hundred five dollars (\$105.00) each plus shipping and handling</u>
<u>Standard 350 – Onsite Residential and Commercial Water Reuse Treatment</u>	<u>One hundred five dollars (\$105.00) each plus shipping and handling</u>
<u>IAPMO</u> 4755 E Philadelphia St, Ontario, CA 91761 <a href="http://www.iapmo.org/Pages/IAPMOgroup.aspx">http://www.iapmo.org/Pages/IAPMOgroup.aspx</a>	
<u>IAPMO/ANSI Z1000 – Prefabricated Septic Tanks</u>	<u>One hundred dollars (\$100.00) each</u>
<u>CSA</u> 178 Rexdale Blvd, Toronto, ON Canada M9W 1R3 <a href="http://www.csagroup.org/">http://www.csagroup.org/</a>	
<u>B66 – Design, material, and manufacturing requirements for prefabricated septic tanks and sewage holding tanks</u>	<u>One hundred eighty dollars (\$180.00) each plus eighteen dollars (\$18.00) shipping and handling</u>
<u>2012 North Carolina Plumbing Code</u>	
	Available at no charge at: <a href="https://codes.iccsafe.org/public/collections/nc">https://codes.iccsafe.org/public/collections/nc</a>
<u>2015 North Carolina Building Code</u>	
	Available at no charge at: <a href="https://codes.iccsafe.org/public/collections/nc">https://codes.iccsafe.org/public/collections/nc</a>
<u>North Carolina Food Code Manual</u>	
	Available at no charge at: <a href="http://ehs.ncpublichealth.com/faf/docs/foodprot/NC-FoodCodeManual-2009-FINAL.pdf">http://ehs.ncpublichealth.com/faf/docs/foodprot/NC-FoodCodeManual-2009-FINAL.pdf</a>

<u>U.S. Government Publishing Office</u> <u>732 North Capitol St, NW, Washington, DC 20401-0001</u> <u><a href="https://bookstore.gpo.gov/">https://bookstore.gpo.gov/</a></u>	
<u>40 CFR 136</u>	<u>Sixty seven dollars (\$67.00) each</u>
<u>Forestry Suppliers, Inc</u> <u>PO Box 8397</u> <u>Jackson, MS 39284-8397</u> <u><a href="https://www.forestry-suppliers.com/">https://www.forestry-suppliers.com/</a></u>	
<u>Munsell® Soil Color Book</u>	<u>One hundred ninety five dollars (\$195.00) each plus shipping and handling</u>
<u>National Technical Information Service</u> <u>5301 Shawnee Rd</u> <u>Alexandria, VA 22312</u> <u><a href="https://www.ntis.gov/">https://www.ntis.gov/</a></u>	
<u>DRAINMOD User's Guide</u>	<u>Available at no charge at:</u> <u><a href="https://ntrl.ntis.gov/NTRL/dashboard/searchResults/titleDetail/PB96112438.xhtml">https://ntrl.ntis.gov/NTRL/dashboard/searchResults/titleDetail/PB96112438.xhtml</a></u>

*Authority G.S. 130A-335(e).*

**15A NCAC 18E .0104 ABBREVIATIONS**

For the purpose of this Subchapter, the following abbreviations refer to:

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| (1) <u>ABS: Acrylonitrile-Butadiene-Styrene;</u>                                   | (32) <u>LHD: Local Health Department;</u>  |
| (2) <u>ACEC: Apparent Cation Exchange Capacity;</u>                                | (33) <u>LPP: Low Pressure Pipe;</u>  |
| (3) <u>ANSI: American National Standards Institute;</u>                            | (34) <u>LSS: Licensed Soil Scientist;</u>  |
| (4) <u>AOWE: Authorized On-Site Wastewater Evaluator;</u>                          | (35) <u>LTAR: Long Term Acceptance Rate;</u>   |
| (5) <u>ASTM: American Society for Testing and Materials;</u>                       | (36) <u>meq/100 g: Milliequivalents per 100 grams;</u>   |
| (6) <u>ATO: Authorization to Operate;</u>  | (37) <u>mg/L: Milligrams/Liter;</u>  |
| (7) <u>BOD<sub>5</sub>: Five Day Biochemical Oxygen Demand;</u>                    | (38) <u>NEMA: National Electrical Manufacturers Association;</u>   |
| (8) <u>CA: Construction Authorization;</u>   | (39) <u>NH<sub>3</sub>: Total Ammonia Nitrogen;</u>  |
| (9) <u>CBOD: Carbonaceous Biochemical Oxygen Demand;</u>                           | (40) <u>NOI: Notice of Intent to Construct;</u>  |
| (10) <u>cmol/kg: centimoles per kilogram;</u>                                      | (41) <u>NOV: Notice of Violation;</u>  |
| (11) <u>CFR: Code of Federal Regulations;</u>                                      | (42) <u>NSF: NSF International;</u>  |
| (12) <u>CSA: Canadian Standards Association;</u>                                   | (43) <u>OP: Operation Permit;</u>  |
| (13) <u>DDF: Design Daily Flow;</u>  | (44) <u>PE: Professional Engineer;</u>   |
| (14) <u>DEQ: Department of Environmental Quality;</u>                              | (45) <u>PIA: Provisional, Innovative, and Accepted;</u>  |
| (15) <u>DIP: Ductile Iron Pipe;</u>  | (46) <u>PPBPS: Prefabricated Permeable Block Panel System;</u>   |
| (16) <u>DO: Dissolved Oxygen;</u>  | (47) <u>psi: Pounds per Square Inch;</u>   |
| (17) <u>DOT: Department of Transportation;</u>                                     | (48) <u>PVC: Polyvinyl Chloride;</u>   |
| (18) <u>DSE: Domestic Strength Effluent;</u>                                       | (49) <u>RCW: Reclaimed Water;</u>  |
| (19) <u>EOP: Engineered Option Permit;</u>   | (50) <u>RV: Recreational Vehicle;</u>  |
| (20) <u>FE: Iron;</u>  | (51) <u>RWTS: Residential Wastewater Treatment System;</u>   |
| (21) <u>FOG: Fats, Oil, and Grease;</u>  | (52) <u>SCO: State Climate Office of North Carolina;</u>   |
| (22) <u>gal: gallons</u>   | (53) <u>SDR: Standard Dimension Ratio;</u>   |
| (23) <u>gpd: Gallons per Day;</u>  | (54) <u>SPI: Standard Precipitation Index;</u>   |
| (24) <u>gpd/ft<sup>2</sup>: Gallons per Day per Square Foot;</u>                   | (55) <u>STEP: Septic Tank Effluent Pump;</u>   |
| (25) <u>HSE: High Strength Effluent;</u>   | (56) <u>SWC: Soil Wetness Condition;</u>   |
| (26) <u>IAPMO: International Association of Plumbing and Mechanical Officials;</u> | (57) <u>TKN: Total Kjeldahl Nitrogen;</u>  |
| (27) <u>IP: Improvement Permit;</u>  | (58) <u>TL: Trench Length;</u>   |
| (28) <u>IPWW: Industrial Process Wastewater;</u>                                   | (59) <u>TN: Total Nitrogen;</u>  |
| (29) <u>LC: Limiting Condition;</u>  | (60) <u>TSS: Total Suspended Solids;</u>   |
| (30) <u>LDP: Large Diameter Pipe;</u>  | (61) <u>TW: Trench Width;</u>  |
| (31) <u>LG: Licensed Geologist;</u>  | (62) <u>USDA-NRCS: United States Department of Agriculture – Natural Resources Conservation Service;</u> |
|  | (63) <u>VIP: Visual Inspection Protocol; and</u>   |
|  | (64) <u>WS: Water Supply Class.</u>  |

*Authority G.S. 130A-335(e).*

**15A NCAC 18E .0105 DEFINITIONS**

In addition to the definitions set forth in G.S. 130A-334, the following shall apply to the Rules in this Subchapter:

- (1) "Aggregate" means naturally occurring inorganic material of a specific size or grade. An example of aggregate is clean, washed gravel or crushed stone which is graded or sized in accordance with size numbers 4, 5, or 6 of ASTM D448.
- (2) "Apparent Cation Exchange Capacity" means the sum of exchangeable bases plus total soil acidity at a pH of 7.0. ACEC is expressed in milliequivalents per 100 grams (meq/100g) of soil or centimoles per kilogram (cmol/kg) of soil. The soil ACEC is calculated by determining the ACEC using the neutral normal ammonium acetate method, pH of 7.0 neutral normal, dividing by the percent clay as determined by particle size distribution using the pipette method, and then multiplying by 100, as described in USDA-NRCS Soil Survey Laboratory Information Manual, Soil Survey Investigations Report No. 45 and Kellogg Soil Survey Laboratory Methods Manual, Soil Survey Investigation Report No. 42, page 229, or EPA Method 9080.
- (3) "Approved" means that which the Department or LHD has determined is in accordance with this Subchapter and G.S. 130A, Article 11.
- (4) "Artificial drainage" means any man-made structure or device designed to overcome a SWC or intercept lateral flowing ground or surface water. Artificial drainage systems include groundwater lowering systems, interceptor drains, and surface water diversions.
- (5) "Authorized agent" means a person who has been authorized by the Department in accordance with G.S. 130A, Article 4 and 15A NCAC 01O .0100 to permit wastewater systems.
- (6) "Authorized designer" means a service provider authorized by the manufacturer who creates plans for the installation, expansion, or repair of a proprietary wastewater system.
- (7) "Authorized On-Site Wastewater Evaluator" means a person licensed in accordance with G.S. 90A, Article 5 and meeting the certification requirements in G.S. 130A-336.2(a) and 21 NCAC 39.
- (8) "Backfill" means the soil that is placed in a trench or bed that surrounds or is on top of the dispersal media within the excavation up to the naturally occurring soil surface.
- (9) "Bed" means an excavation with a width greater than three feet containing dispersal media and one or more laterals.
- (10) "Bedroom" means any room defined as a sleeping room in the North Carolina Building Code.
- (11) "Building drain" means the lowest piping of a drainage system that receives the discharge from waste pipes inside the design unit and extends to 10 ft beyond the walls of the building or five feet for a building with a foundation and conveys the sewage to a building sewer.
- (12) "Building sewer" means the part of a drainage system that extends from the end of the building drain and conveys the discharge to a wastewater system.
- (13) "Certified Inspector" means a person authorized to inspect a wastewater system in accordance with G.S. 90A, Article 5, and applicable rules of the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.
- (14) "Coastal region" means Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Edgecombe, Gates, Greene, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lenoir, Martin, New Hanover, Northampton, Onslow, Pamlico, Pender, Pasquotank, Perquimans, Pitt, Richmond, Robeson, Sampson, Scotland, Tyrrell, Washington, Wayne, and Wilson counties.
- (15) "Collection sewer" means gravity flow pipelines, force mains, effluent supply lines, manholes, lift stations and all appurtenances used for conveying wastes from the building drain or building sewer to and within a wastewater system. A collection system is a collection sewer.
- (16) "Complete data set" means analytical results for all required influent and effluent constituents as specified in the effluent standard for a specific site on a specific date. A data set may include other constituents specified in an RWTS or PIA Approval, permit, or other document.
- (17) "Component" means a part of a wastewater system. The component may be any part of the wastewater system, such as a collection sewer, pretreatment, dispersal field, etc.
- (18) "Composite sample" means commingled individual samples collected from the same point at different times. Samples may be of equal volume or may be proportional to the flow at time of sampling.
- (19) "Control system" means either conventional or accepted systems that are surveyed as part of a survey protocol identified in Rule .1706 of this Subchapter.
- (20) "Cover" means the soil that is placed at or above the naturally occurring soil surface to cover the wastewater system.



- (21) "Demand dosing" means a configuration in which a specific volume of effluent is delivered to a component based upon patterns of wastewater generation from the source and liquid level detection device settings.
- (22) "Department" means the North Carolina Department of Health and Human Services, as defined in G.S. 130A-334(1f). The mailing address for the Department is as follows: NCDHHS, Division of Public Health, On-Site Water Protection Branch, 1642 Mail Service Center, Raleigh, North Carolina 27699-1642.
- (23) "Design daily flow" means the unadjusted quantity of wastewater a facility is projected to produce in a 24-hour period upon which wastewater system sizing and design are based as determined in Section .0400 of this Subchapter.
- (24) "Design unit" means a discrete connection such as an individual dwelling unit, place of business, or place of public assembly on which wastewater DDF is based. Multiple design units may comprise a facility.
- (25) "Dispersal field" means the physical location where final treatment and dispersal of effluent occurs in the soil.
- (26) "Dispersal media" means the media used to provide void space through which effluent flows and may be stored prior to infiltration, such as washed gravel or crushed stone, products referenced in Section .0900 of this Subchapter, products approved pursuant to Section .1700 of this Subchapter, etc.
- (27) "Dispersal system" means the dispersal field and associated components that distribute effluent to and within the dispersal field. This includes a pump, pump tank, pressure manifold, distribution box, drip box, lateral, dispersal media, etc.
- (28) "Dose volume" means an amount of effluent delivered during a dosing event as determined by the liquid level detection device settings in a demand dosing system or by a timer in a timed dosing system.
- (29) "Dwelling unit" means any room or group of rooms located within a structure and forming a single, habitable unit with facilities which are used or intended to be used for living, sleeping, bathing, toilet usage, cooking, and eating.
- (30) "Effluent" means the liquid discharge from a pretreatment process, component, or system.
- (31) "Facility" means one or more design units located on a single or multiple lot(s) or tract(s) of land and served by a wastewater system comprised of one or more wastewater systems.
- (32) "Finished grade" means the final elevation of the land over the wastewater system after installation.
- (33) "Flow equalization" means a system configuration that includes sufficient storage capacity to allow for uniform flow to a subsequent component despite variable flow from the source.
- (34) "Full kitchen" means the appliances meet the requirements of North Carolina Food Code, Chapters 4-1 and 4-2.
- (35) "Grab sample" means a discrete sample collected at a specific time and location.
- (36) "Grease tank" means the tank located outside the facility that is used to reduce the amount of grease discharged to a wastewater system.
- (37) "Grease trap" means a device used inside the facility to reduce the amount of grease discharged to a wastewater system.
- (38) "Gravity distribution" means gravity flow of effluent to and within each lateral.
- (39) "Groundwater lowering system" means a type of artificial drainage system designed to lower the water table by gravity or, in conjunction with a pump, to maintain the vertical separation beneath a dispersal field.
- (40) "Horizon" means a layer of soil, parallel to the surface that has distinct physical, chemical, and biological properties or characteristics such as color, structure, texture, consistence, kinds and number of organisms present, degree of acidity or alkalinity, etc., resulting from soil forming processes.
- (41) "Infiltrative surface" means the designated interface where effluent moves from dispersal media or a distribution device into treatment media, naturally occurring soil, or fill.
- (42) "Influent" means the sewage discharged to a pretreatment component.
- (43) "Installer" means a person authorized to construct, install, or repair a wastewater system in accordance with G.S. 90A, Article 5 and applicable rules of the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.
- (44) "Interceptor drain" means a type of artificial drainage designed to intercept and divert lateral moving groundwater or perched water away from the dispersal field or other system component to an effective outlet.
- (45) "Invert" means the lowest elevation of the internal cross-section of a pipe, fitting, or component.
- (46) "Jurisdictional wetland" means an area subject to the regulatory jurisdiction of the U.S. Army Corps of Engineers or DEQ.
- (47) "Ksat" or saturated hydraulic conductivity, means the rate of water flow through a unit cross sectional area of soil under saturated conditions. In-situ Ksat is measured in the field using clean water. Results of in-situ Ksat are

- used to simulate movement of effluent through the soil and may be used to field verify LTAR.
- (48) "Lateral water movement" means the movement of subsurface water downslope often associated with a less permeable horizon. Lateral water movement can be observed in a bore hole, excavation, or monitoring well on sloping sites.
- (49) "Lateral" means any pipe, tubing, or other device used to convey and distribute effluent in a dispersal field.
- (50) "Limiting condition" means soil conditions or site features that determine wastewater system design options. Soil conditions are morphology, depth, restrictive horizons, soil wetness, or organic matter content. Site features are topography, slope, landscape position, or available space.
- (51) "Lithochromic feature" means soil mottle or matrix associated with variations of color due to weathering of parent materials.
- (52) "Long Term Acceptance Rate" means the rate of effluent absorption by the soil, existing fill, or saprolite in a wastewater system after long-term use. The LTAR, in units of gpd/ft<sup>2</sup>, is assigned based upon soil textural class, structure, consistence, depth, percent coarse rock, landscape position, topography, and system type, and is used to determine the dispersal field sizing requirements, in accordance with applicable rules of this Subchapter.
- (53) "Local health department" means any county, district, or other health department authorized to be organized under the General Statutes of North Carolina.
- (54) "Management Entity" means the person, entity, company, or firm designated by the owner of the wastewater system who has primary responsibility for the operation of a wastewater system in accordance with this Subchapter, G.S. 90A, Article 3, and applicable rules of the Water Pollution Control System Operators Certification Commission. The Management Entity may be the owner, a public Management Entity, a certified operator, a management company, or an entity that employs certified operators. The Management Entity is or employs the operator in responsible charge for the wastewater system.
- (55) "Mass loading" means the total mass of one or more organic or inorganic effluent constituents delivered to the wastewater system over a specified period. It is computed by multiplying the total volume of flow during the specified period by the flow-weighted average constituent concentration in the same period. Units of measurement are pounds per day.
- (56) "Matrix" means a volume of soil equivalent to 50 percent or greater of the total volume of a horizon.
- (57) "Mean high-water mark" means, for coastal waters having six inches or more lunar tidal influence, the average height of the high-water over a 19-year period as may be ascertained from National Ocean Survey, U.S. Army Corps of Engineers tide stations data, or as otherwise determined under the provisions of the Coastal Area Management Act. The highest high-water mark as reported by the three agencies shall be applied.
- (58) "Media" means a solid material that can be described by shape, dimensions, surface area, void space, and application.
- (59) "Media filter" means a device that uses materials designed to treat effluent by reducing BOD<sub>5</sub> and removing TSS in an unsaturated environment. Biological treatment is facilitated via microbial growth on the surface of the treatment media.
- (60) "Mottle" means subordinate color of a differing Munsell color system notation in a soil horizon.
- (61) "Mountain region" means Alleghany, Ashe, Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, and Yancey counties.
- (62) "Naturally occurring soil" means soil formed in place due to natural formation processes that is unaltered by filling, removal, or other artificial modification other than tillage.
- (63) "NEMA 4X" means an enclosure for an electrical control panel or junction box that meets standards for protection of equipment due to the ingress of water, including rain and hose-directed water, and an additional level of protection against corrosion, as set forth in NEMA Standard 250.
- (64) "NSF-40 systems" means individual RWTS that are approved and listed in accordance with the standards adopted by NSF International for Class I residential wastewater treatment systems under NSF-ANSI Standard 40 and approved for use in accordance with G.S. 130A-342 and the Rules of this Subchapter.
- (65) "Non-ground absorption system" means a system for waste treatment designed not to discharge to the soil, land surface, or surface waters, including approved vault privies, incinerating toilets, mechanical toilets, composting toilets, chemical toilets, and recycling systems.
- (66) "Normal water level" means the term as defined in 15A NCAC 02B .0610(28).
- (67) "Off-site system" means a wastewater system where any system component is located on

- property other than the lot where the facility is located.
- (68) "Ordinary high-water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as: a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that reflect the characteristics of the surrounding areas.
- (69) "Organic soils" means those organic mucks and peats consisting of more than 20 percent organic matter, by dry weight, and greater than or equal to 18 inches in thickness.
- (70) "Owner" means a person holding legal title to the facility, wastewater system, or property or his or her representative. The owner's representative is a person who holds power of attorney to act on an owner's behalf or an agent designated by letter or contract to act on the owner's behalf.
- (71) "Parallel distribution" means the distribution of effluent that proportionally loads multiple sections of a dispersal field at one time.
- (72) "Parent material" means the mineral and organic matter that is in its present position through rock decomposition or deposition by water, wind, or gravity.
- (73) "Ped" means a unit of soil structure, such as blocky, granular, prismatic, or platy formed by natural processes, in contrast to a clod, which is a compact, coherent, mass of soil produced by digging, plowing, or other human land manipulation.
- (74) "Perched water table" means a zone of saturation held above the main groundwater body by a less permeable layer, impermeable rock, or sediment, which may or may not exhibit redoximorphic features.
- (75) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, company, or unit of local government.
- (76) "Piedmont region" means Alamance, Alexander, Anson, Burke, Cabarrus, Caldwell, Caswell, Catawba, Chatham, Cleveland, Davidson, Davie, Durham, Forsyth, Franklin, Gaston, Granville, Guilford, Iredell, Lee, Lincoln, Mecklenburg, Montgomery, Moore, Nash, Orange, Person, Polk, Randolph, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Union, Vance, Wake, Warren, Wilkes, and Yadkin counties.
- (77) "Pressure dispersal" means a system utilizing an effluent pump or siphon to distribute effluent uniformly to the infiltrative surface in the dispersal field through a pressurized pipe network.
- (78) "Pressure dosed gravity distribution" means pressure delivery of effluent to a manifold, distribution box, or other splitter with subsequent gravity distribution within one or more laterals to the infiltrative surface.
- (79) "Public management entity" means a public entity legally authorized to operate and maintain wastewater systems, including a city pursuant to G.S. 160A, Article 16, a county pursuant to G.S. 153A, Article 15, an interlocal contract pursuant to G.S. 160A, Article 20, a joint management agency pursuant to G.S. 160A, Article 20, a county service district pursuant to G.S. 153A, Article 16, a county water and sewer district pursuant to G.S. 162A, Article 6, a sanitary district pursuant to G.S. 130A, Article 2, Part 2, a water and sewer authority pursuant to G.S. 162A, Article 1, a metropolitan water district pursuant to G.S. 162A, Article 4, a metropolitan sewerage district pursuant to G.S. 162A, Article 5A, a public utility pursuant to G.S. 62, Article 1, a county or district health department pursuant to G.S. 130A, Article 2, or any other public entity legally authorized to operate and maintain wastewater systems.
- (80) "Raw sewage lift stations" means a dosing system that is designed to move untreated sewage from a lower elevation to a higher elevation. Raw sewage lift stations are installed prior to any wastewater treatment.
- (81) "RCW systems" means advanced pretreatment systems approved by the Department in accordance with Section .1700 of this Subchapter that meet RCW effluent standards in Rule .1002 of this Subchapter.
- (82) "Redoximorphic features" means a color pattern of a horizon due to a depletion or concentration of pigment compared to the matrix color, formed by oxidation and reduction of Fe coupled with its removal, translocation, or accrual, or a soil matrix color controlled by the presence of Fe<sup>+2</sup>. Redox depletions are a type of redoximorphic feature.
- (83) "Repair area" means an area that has been classified suitable consistent with the Rules in this Subchapter that is reserved for the extension, alteration, wastewater system relocation, or replacement of part or all of the initial wastewater system. The repair area shall be available to be used in the event of a malfunction or if a wastewater system is partially or totally destroyed.
- (84) "Residential Wastewater Treatment Systems" means approved individual advanced pretreatment systems that are covered under standards of NSF International, in accordance with G.S. 130A-342 and applicable Rules in this Subchapter.

- (85) "Restrictive horizon" means a soil horizon that is capable of perching groundwater or effluent and that is brittle and strongly compacted or strongly cemented with iron, aluminum, silica, organic matter, or other compounds. Restrictive horizons may occur as fragipans, iron pans, or organic pans, and are recognized by their resistance in excavation or in using a soil auger.
- (86) "Rock" means the body of consolidated or partially consolidated material composed of minerals at or below the land surface. Rock includes bedrock and partially weathered rock that is hard and cannot be dug with hand tools. The upper boundary of rock is saprolite, soil, or the land surface.
- (87) "Saprolite" means the body of porous material formed in place by weathering of rock that has a massive, rock-controlled structure and retains the arrangement of minerals of its parent rock in a minimum of 50 percent of its volume. Saprolite can be dug with hand tools. The lower limit of saprolite is rock and its upper limit is soil or the land surface.
- (88) "Septic tank" means a structurally sound, water-tight, covered receptacle, approved in accordance with Section .1400 of this Subchapter. A septic tank is designed for primary treatment of wastewater and is constructed to:
- (a) receive the discharge of wastewater from a building;
  - (b) separate settleable and floating solids from the liquid;
  - (c) digest organic matter by anaerobic bacterial action;
  - (d) store digested solids through a period of detention; and
  - (e) allow effluent to discharge for additional treatment and final dispersal.
- (89) "Septic tank effluent pump" means a collection system that uses a septic tank to separate solids and incorporates a pump vault, pump, and associated devices to convey effluent under pressure to a subsequent component.
- (90) "Sequential distribution" means the distribution method in which effluent is loaded into one trench and fills it to a predetermined level before passing through a drop box or relief device to the succeeding trench at a lower elevation. All trenches are fed from the same side.
- (91) "Setback" means the minimum horizontal separation distance between the wastewater system and features listed in Section .0600 of this Subchapter.
- (92) "Settling tank" means a septic tank designed for use in conjunction with a RWTS. A settling tank is not required to meet the design requirements of a septic tank.
- (93) "Serial distribution" means the distribution method in which effluent is loaded into one trench and fills it to a predetermined level before passing through a pipe to the succeeding trench at a lower elevation.
- (94) "Site" means the area in which the wastewater system is located, including the repair area.
- (95) "Soil" means the naturally occurring body of unconsolidated mineral and organic materials on the land surface. Soil is composed of sand-, silt-, and clay-sized particles that are mixed with varying amounts of larger fragments and some organic material. Soil contains less than 50 percent of its volume as rock, saprolite, or coarse-earth fraction. The coarse-earth fraction are mineral particles greater than 2.0 millimeters. The upper limit of the soil is the land surface, and its lower limit is rock, saprolite, or other parent materials.
- (96) "Soil consistence" means the degree and kind of cohesion and adhesion that a soil exhibits.
- (97) "Soil series" means an official series name established by USDA-NRCS.
- (98) "Soil structure" means the arrangement of primary soil particles into compound particles, peds, or clusters that are separated by natural planes of weakness from adjoining units.
- (99) "Soil textural classes" means soil classification based upon size distribution of mineral particles in the fine-earth fraction less than two millimeters in diameter. The fine-earth fraction includes sand, silt, and clay particles. Sand particles are 0.05 – 2.0 mm in size, silt particles are 0.002 – 0.05 mm in size, and clay particles are less than 0.002 mm in size.
- (100) "Stream" means a body of concentrated flowing water in a natural low area or natural or manmade channel on the land surface. This includes ephemeral, intermittent, and perennial streams as defined by DEQ, as well as streams which have been modified by channeling, culvert installation, or relocation.
- (101) "Structurally sound" means a tank that has been installed in accordance with the tank manufacturer's requirements and is able to withstand a minimum uniform live loading of 150 pounds per square foot in addition to all loads to which an underground tank is normally subjected, such as dead weight of the material and soil over the tank, active soil pressure on tank walls, and the uplifting force of groundwater.
- (102) "Surface water diversion" means a natural or constructed drainage feature used to divert surface water, collect runoff, and direct it to an effective outlet. Surface water diversions include waterways, berms, swales, and ditches.

Surface water diversions are a type of artificial drainage.

- (103) "TS-I systems" means advanced pretreatment systems approved by the Department in accordance with Section .1700 of this Subchapter that meet TS-I effluent standards in Table XXV of Rule .1201(a) of this Subchapter.
- (104) "TS-II systems" means advanced pretreatment systems approved by the Department in accordance with Section .1700 of this Subchapter that meet TS-II effluent standards in Table XXV of Rule .1201(a) of this Subchapter.
- (105) "Telemetry" means the ability to contact by phone, email, or another electronic medium. The telemetry unit shall continue alarm notifications to the designated party until the alarm condition is remedied or the telemetry unit is physically turned off.
- (106) "Test system" means the dispersal system proposed for accepted status as part of a survey protocol identified in Rule .1706 of this Subchapter.
- (107) "Third-party" means a person or entity engaged in testing or evaluation that may be compensated for their work product that is independent of the parties for whom testing or evaluation is performed and does not otherwise benefit regardless of the outcome. The third-party person or entity has knowledge of the subject area based upon relevant training and experience.
- (108) "Timed dosing" means a configuration in which a specific volume of effluent is delivered to a component based upon a prescribed interval, regardless of facility water use variation over time.
- (109) "Treatment media" means the media used for physical, chemical, and biological treatment in a wastewater treatment component.
- (110) "Trench" means an excavation with a width less than or equal to three feet containing dispersal media and one or more laterals.
- (111) "Unstable slopes" means areas showing indications of mass downslope movement such as debris flows, landslides, and rock falls.
- (112) "Vertical separation" means the depth beneath the dispersal field infiltrative surface to a LC.
- (113) "Warming kitchen" means a kitchen that does not meet the requirements of North Carolina Food Code, Chapters 4-1 and 4-2.
- (114) "Water main standards" means design criteria for pipe and pipe joints and associated installation procedures used in potable water systems and that have been approved by North Carolina DEQ Public Water Supply Section in accordance with 15A NCAC 18C.

*Authority G.S. 130A-335(e) and (f).*

## **SECTION .0200 - PERMITS**

### **15A NCAC 18E .0201 GENERAL**

(a) All wastewater in any facility containing water-using fixtures connected to a water supply source shall discharge to a wastewater system approved by the Department in accordance with the Rules of this Subchapter.

(b) In order for a wastewater system to be approved:

- (1) the owner shall submit an application in accordance with Rule .0202 of this Section;
- (2) an IP shall be issued in accordance with Rule .0203 of this Section;
- (3) a CA shall be issued in accordance with Rule .0204 of this Section; and
- (4) the authorized agent shall inspect the installation and issue an OP in accordance with Rule .0205 of this Section.

(c) Upon issuance of the CA, the owner may obtain a building permit in accordance with G.S. 130A-338.

(d) Notwithstanding Paragraph (b) of this Rule, an owner may choose to have a wastewater system approved under the provisions of G.S. 130A-336.1 or G.S. 130A-336.2 and in accordance with Rule .0207 of this Section.

(e) All documentation related to a wastewater system shall be maintained by the LHD in the county where the permit is issued, and the property taxes are paid.

(f) Holding tanks shall not be considered an acceptable wastewater treatment and dispersal system. An IP shall not be issued for a holding tank for new construction or to serve a permanent facility.

*Authority G.S. 130A-335; 130A-336; 130A-336.1; 130A-336.2; 130A-337; 130A-338.*

### **15A NCAC 18E .0202 APPLICATION**

(a) An application for an IP, CA, and existing system authorization shall be submitted to the LHD, and approved in accordance with these Rules, for each site prior to the construction, location, or relocation of a residence, place of business, or place of public assembly.

(b) Prior to the repair of a wastewater system, an application for a CA shall be submitted to the LHD.

(c) A pending application for an IP, CA, or existing system authorization for which the LHD is awaiting action by the owner shall expire 12 months from the date of application.

(d) When an IP, CA, or existing system authorization expires or is revoked, or an application for an IP or CA expires, a new application is required.

(e) For a Type V or VI system as specified in Table XXXII of Rule .1301(b) of this Subchapter, a new application shall be submitted at least 30 days prior to the OP expiring.

(f) An owner may choose to contract with an LSS to conduct a soil and site evaluation in accordance with G.S. 130A-335(a2). The soil and site evaluation shall be submitted to the LHD as part of the application process.

(g) The application for an IP shall contain the following information:

- (1) owner's name, mailing address, and phone number;

- (2) type of permit requested:
    - (A) new;
    - (B) change of use;
    - (C) expansion or increase in DDF; or
    - (D) wastewater system relocation;
  - (3) site plan or plat indicating the locations of the following:
    - (A) existing and proposed facilities, structures, appurtenances, and wastewater systems;
    - (B) proposed wastewater system showing setbacks to property line(s) or other fixed reference point(s);
    - (C) existing and proposed vehicular traffic areas;
    - (D) existing and proposed water supplies, wells, springs, and water lines; and
    - (E) surface water, drainage features, and all existing and proposed artificial drainage, as applicable;
  - (4) location, parcel identification number, other property identification, 911 address if known, acreage, and general directions to the property;
  - (5) description of existing and proposed facilities and wastewater systems;
  - (6) information needed to determine DDF and effluent strength of the facility(s) served, including number and function of individual design units, number of bedrooms and occupants per bedroom, or number of occupants;
  - (7) whether wastewater other than DSE will be generated;
  - (8) notification if the property includes, or is subject to, any of the following:
    - (A) previously identified jurisdictional wetlands;
    - (B) existing or proposed easements, rights-of-way, encroachments, or other areas subject to legal restrictions; or
    - (C) approval by other public agencies; and
  - (9) signature of owner.
- (h) The application for a CA shall contain:
- (1) the information required in Paragraph (g) of this Rule. A site plan or plat shall not be required with the application to repair a permitted wastewater system when the repairs will be accomplished on property owned and controlled by the owner and for which property lines are identifiable in the field;
  - (2) identification of the proposed use of a grinder pump or sewage pump; and
  - (3) the type of the proposed wastewater system specified by the owner.
- (i) The application for an existing system authorization shall contain:
- (1) the owner's name, mailing address, and phone number;

- (2) a site plan or plat indicating the locations of the existing and proposed facilities, existing wastewater systems and repair areas, existing and proposed water supplies, easements, rights-of-way, encroachments, artificial drainage, and all appurtenances;
  - (3) location, parcel identification number, other property identification, 911 address if known, acreage, and directions to the property;
  - (4) for reconnections, information needed to determine DDF of the facility served, including number and function of individual design units, number of bedrooms and occupants per bedroom, or number of occupants; and
  - (5) signature of owner(s).
- (j) Submittal of a signed application shall constitute right of entry to the property by an authorized agent.

*Authority G.S. 130A-335; 130A-336; 130A-337; 130A-338.*

#### **15A NCAC 18E .0203 IMPROVEMENT PERMIT**

- (a) Upon receipt of a complete application for an IP, an authorized agent shall evaluate the site to determine whether the site is suitable or unsuitable for the installation of a wastewater system in accordance with Section .0500 of this Subchapter. If the site is classified suitable, an IP shall be issued in accordance with this Subchapter. The authorized agent shall prepare dated, written documentation of the soil and site conditions required to be evaluated in Section .0500 of this Subchapter.
- (b) When the site is classified suitable an authorized agent shall issue an IP for the site that includes the items contained in G.S. 130A-336(a)(1) through (6) and the following information:
- (1) DDF, number of bedrooms, maximum number of occupants or people served, and wastewater strength in accordance with Section .0400 of this Subchapter;
  - (2) required effluent standard - DSE, HSE, NSF-40, TS-I, TS-II, or RCW in accordance with Table III of Rule .0402(a), Table XXV of Rule .1201(a), or Rule .1002, of this Subchapter;
  - (3) all applicable setbacks and requirements in accordance with Section .0600 of this Subchapter;
  - (4) description of the facility, structures, vehicular traffic areas, and other proposed improvements;
  - (5) description of existing and proposed public or private water supplies, including private drinking water wells and springs and associated water lines;
  - (6) a site plan or plat as defined in G.S. 130A-334 showing the existing and proposed property lines with dimensions, the location of the facility and appurtenances, the site for the proposed wastewater system and repair area, and the location of water supplies and surface water;
  - (7) the proposed initial wastewater system and repair system areas and types, including LTARs for each system; and

- (8) permit conditions, such as site-specific site modifications, installation requirements, maintenance of the groundwater lowering system, etc.

(c) When the site is classified unsuitable, a signed, written report shall be provided to the owner describing the unsuitable site characteristics and citing the applicable rule(s). If modifications or alternatives are available to support site reclassification to suitable this information shall be included in the report.

(d) The period of validity for the permit in accordance with G.S. 130A-335(f) shall be stated on the IP.

(e) The IP shall be transferable subject to the conditions set forth in G.S. 130A-336(a).

(f) An IP shall be suspended or revoked if:

- (1) the information submitted in the application is found to be incomplete, false, or incorrect;
- (2) the site is altered and the permitted system cannot be installed or operated as permitted;
- (3) conditions of the IP or the Rules of this Subchapter cannot be met;
- (4) a new IP is issued for the same design unit on the same property; or
- (5) an NOI is issued in accordance with G.S. 130A-336.1(b) or G.S. 130A-336.2(b) for the same design unit on the same property.

(g) An IP shall be applicable to both initial and repair dispersal field areas identified and approved on the IP and only a CA shall be issued if wastewater system repairs are necessary.

*Authority G.S. 130A-335; 130A-336.*

#### **15A NCAC 18E .0204 CONSTRUCTION AUTHORIZATION**

(a) The owner shall obtain a CA after an IP has been issued and prior to the construction, location, or relocation of a facility, or the construction or repair of a wastewater system.

(b) Conditions of an IP shall be completed prior to the issuance of a CA. A CA shall be issued by an authorized agent for wastewater system installation when it is found that the IP conditions and Rules of this Subchapter are met.

(c) A CA may be issued at the same time as the IP if no conditions on the IP are required to be completed prior to CA issuance.

(d) Any necessary easements, rights-of-way, or encroachment agreements shall be obtained prior to the issuance of a CA.

(e) The CA shall specify the following:

- (1) all information required in Rule .0203(b) of this Section;
- (2) the initial wastewater system type and layout, location of all initial wastewater system components, and design details and specifications for the following, as applicable:
  - (A) tanks;
  - (B) collection sewers;
  - (C) pump requirements;
  - (D) advanced pretreatment;
  - (E) distribution devices; and
  - (F) trench width, length, and depth on the downslope side of the trench;

- (3) the nature of the Management Entity required and the minimum operation and maintenance requirements in accordance with Section .1300 of this Subchapter; and

- (4) permit conditions, such as site-specific installation requirements, maintenance of the groundwater lowering system, etc.

(f) A CA shall be issued for each wastewater system serving a facility. Separate CAs may be issued for individual components. A building permit shall not be issued for a design unit until CAs for all components of the wastewater system serving that design unit have been issued.

(g) Prior to the issuance of a CA for a system where all or part of the system will be under common or joint control, a draft multi-party agreement between the developer and an incorporated owners' association shall be submitted to and its conditions approved by the LHD. The draft multi-party agreement shall include and address the following, as applicable:

- (1) ownership;
- (2) transfer of ownership;
- (3) maintenance;
- (4) operation;
- (5) wastewater system repairs; and
- (6) designation of fiscal responsibility for the continued satisfactory performance of the wastewater system and repair or replacement of collection, treatment, dispersal, and other components.

(h) Systems or components under common or joint control include the following:

- (1) wastewater system serving a condominium or other multiple-ownership development; or
- (2) off-site systems serving two or more facilities where any components are under common or joint ownership or control.

(i) The CA shall be valid for a period equal to the period of validity of the IP and stated on the permit.

(j) The CA shall be transferable subject to the conditions set forth in G.S. 130A-336(a).

(k) A CA shall be suspended or revoked if:

- (1) the information submitted in the application is found to be incomplete, false, or incorrect;
- (2) the site is altered and the permitted system cannot be installed or operated as permitted;
- (3) conditions of the CA or the Rules of this Subchapter cannot be met;
- (4) a new CA is issued for the same design unit on the same property; or
- (5) an NOI is issued in accordance with G.S. 130A-336.1(b) or G.S. 130A-336.2(b) for the same design unit on the same property.

*Authority G.S. 130A-335; 130A-336; 130A-338.*

#### **15A NCAC 18E .0205 OPERATION PERMIT**

(a) The owner shall obtain an OP after the wastewater system has been installed or repaired and the authorized agent has inspected the system. The inspection shall occur prior to the system being covered. The authorized agent shall determine that the system has

been installed in accordance with this Subchapter and any conditions of the IP and CA.

(b) During the wastewater system inspection, the authorized agent shall notify the installer of items that do not meet the Rules of this Subchapter and conditions described in the IP and CA. Corrections shall be made to bring the system into compliance with this Subchapter by the installer. If corrections cannot be made, an authorized agent shall not issue an OP and the system shall not be placed into use. The authorized agent making the determination shall prepare a written report referencing deficiencies in the system installation, citing the applicable rule(s) and IP and CA conditions, and include a letter of Intent to Suspend or Revoke the IP and CA or the CA. A copy of the report shall be provided to the owner and the installer.

(c) The OP shall include:

- (1) the initial system and designated repair system type in accordance with Table XXXII of Rule .1301(b) of this Subchapter and the unique code assigned under Rule .1713(10) of this Subchapter;
- (2) facility description including number of bedrooms and maximum occupancy, maximum number of occupants or people served, DDF, and wastewater strength;
- (3) a site plan or plat as defined in G.S. 130A-334 showing the property lines with dimensions, the location of the facility and appurtenances, the site for the wastewater system and repair area including location and dimensions, and the location of water supplies and surface water;
- (4) dispersal field design including trench or bed length, width, depth, and location;
- (5) the tank(s) location, capacity, and ID numbers;
- (6) groundwater monitoring well locations, sampling frequency, and characteristics sampled, as applicable;
- (7) conditions for system performance, operation, monitoring, influent and effluent sampling requirements, and reporting, including the requirement for a contract with a Management Entity, as applicable;
- (8) a statement specifying that best professional judgement was used to repair the malfunctioning wastewater system, if applicable; and
- (9) approved engineered plans, specifications, and record drawings if required in Rule .0303(g) of this Subchapter.

(d) Prior to the issuance of an OP for a system requiring a multi-party agreement, the multi-party agreement shall be executed between the developer and an incorporated owners' association and filed with the local register of deeds.

(e) When a wastewater system is required to be designed by an authorized designer or PE, the PE or authorized designer shall provide a written statement to the owner and authorized agent specifying that construction is complete and in accordance with approved plans, specifications, and modifications. The written statement shall be provided prior to issuance of the OP.

(f) An OP shall be valid and remain in effect for a system provided:

- (1) wastewater strength and DDF remain unchanged;
- (2) the system is operated and maintained in accordance with this Subchapter;
- (3) no malfunction is found as defined in Rule .1303(a)(1) and (2) of this Subchapter;
- (4) the system has not been abandoned in accordance with Rule .1307 of this Subchapter;
- (5) the system complies with the condition(s) of the OP; and
- (6) the OP has not expired or been revoked.

(g) For a Type V or VI system as specified in Table XXXII of Rule .1301(b) of this Subchapter, the OP shall expire five years after being issued.

(h) An authorized agent shall modify, suspend, or revoke the OP or seek other remedies under G.S. 130A, Article 2, if it is determined that the system is not being operated and maintained in accordance with this Subchapter and all conditions imposed by the OP.

(i) When an OP expires in accordance with Paragraph (g) of this Rule a new application shall be required prior to issuance of a new OP to confirm that the previously approved facility has not changed and that the system remains in compliance with permit conditions.

(j) When an OP is revoked due to facility non-compliance, such as additional wastewater flow or increased wastewater strength, a new application shall be required prior to evaluation for a new IP, CA, and OP.

(k) An OP shall be revoked prior to an ATO being issued for the same design unit on the same property.

Authority G.S. 130A-335; 130A-337; 130A-338.

#### **15A NCAC 18E .0206 EXISTING SYSTEM APPROVALS FOR RECONNECTIONS AND PROPERTY ADDITIONS**

(a) Approval by an authorized agent shall be issued prior to any of the following:

- (1) a facility being reconnected to an existing system; or
- (2) other site modifications as described in Paragraph (c) of this Rule.

(b) Approvals for reconnecting a facility shall be issued by an authorized agent upon determination of the following:

- (1) the site complies with its OP or the wastewater system was in use prior to July 1, 1977;
- (2) there is no current or past uncorrected malfunction of the system as described in Rule .1303(a)(1) and (2) of this Subchapter;
- (3) the DDF and wastewater strength for the proposed facility do not exceed that of the existing system;
- (4) the facility meets the setbacks in Section .0600 of this Subchapter; and
- (5) the existing system is being operated and maintained as specified in G.S. 130A, Article 11, this Subchapter, and permit conditions.



(c) Prior to construction, relocation of a structure, the expansion of an existing facility's footprint, or other site modifications that require the issuance of a building permit, but that do not increase DDF or wastewater strength, an approval shall be issued by an authorized agent upon determination of the compliance of the proposed structure with setback requirements in Section .0600 of this Subchapter.

(d) For approvals issued in accordance with this Rule the authorized agent shall provide written documentation of the approval to the owner. The written documentation of the approval shall describe the site modification, system use, DDF, wastewater strength, number of bedrooms, and number of occupants, and shall include a site plan showing the location, dimensions, and setbacks of existing and proposed structures to the existing system and repair area.

*Authority G.S. 130A-335; 130A-337(c) and (d).*

### **15A NCAC 18E .0207 ALTERNATIVE WASTEWATER SYSTEM PERMITTING OPTIONS**

(a) An owner may choose to use an EOP for wastewater systems in accordance with G.S. 130A-336.1 or an AOWE in accordance with G.S. 130A-336.2. The EOP shall be used if the wastewater system design requires a PE in accordance with Rule .0303(a) of this Subchapter.

(b) Prior to the submittal of an NOI for an EOP or an AOWE system as required by G.S. 130A-336.1(b) or G.S. 130A-336.2(b), respectively, a soil and site evaluation shall be conducted in accordance these Statutes and the Rules of this Subchapter.

(c) The NOI for an EOP or AOWE system shall be submitted to the LHD in the county where the facility is located by the owner, PE authorized as the legal representative of the owner, or AOWE authorized as the legal representative of the owner. The NOI shall be submitted on the common form for EOP or the common form for AOWE provided by the Department. The common forms are available by accessing the Department's website at <https://ehs.ncpublichealth.com/oswp/>. The forms shall include all the information specified in G.S. 130A-336.1(b) or 130A-336.2(b) and the following:

- (1) the LSS's, and LG's name, license number, address, e-mail address, and telephone number, as applicable. The installer's name, license number, address, e-mail address, and telephone number shall be provided on the EOP common form;
- (2) information required in Rule .0202 of this Section for IP and CA applications;
- (3) identification and location on the site plan of existing or proposed potable water supplies, geothermal heating and cooling wells, and groundwater monitoring wells for the proposed site. The PE or AOWE shall reference any existing permit issued for a private drinking water well, public water system as defined in G.S. 130A-313(10), or a wastewater system on both the subject and adjoining properties to provide documentation of compliance with setback requirements in Section .0600 of this Subchapter; and

- (4) proof of insurance for the PE, LSS, and LG, as applicable. Proof of insurance for the installer shall be provided with the NOI.

(d) The PE or AOWE design shall incorporate findings and recommendations on soil and site conditions, limitations, site modifications, and geologic and hydrogeologic conditions specified by the LSS or LG, as applicable, and in accordance with G.S. 130A-336.1(b)(8) or G.S. 130A-336.2(b)(9), respectively. For an EOP, when the PE chooses to employ pretreatment technologies not approved in this State, the engineering report shall specify the proposed technology and the associated siting, installation, operation, maintenance, and monitoring requirements, including written manufacturer's endorsement of the proposed use.

(e) The PE or AOWE shall allow for the use of Accepted Systems in accordance with G.S. 130A-336.1(e)(5) or G.S. 130A-336.2(d)(5), respectively.

(f) No building permit for construction, location, or relocation shall be issued until after a decision of completeness of the NOI is made by the LHD. If the LHD fails to act within 15 business days for an EOP or within five business days for an AOWE, the common form is deemed complete.

(g) If there are any changes in the site plan that can impact the wastewater system, such as moving the house or driveway, site alterations, or if the owner chooses to change the DDF or the wastewater strength prior to wastewater system construction, a new NOI shall be submitted to the LHD. The owner shall request in writing that the PE or AOWE invalidate the prior NOI with a signed and sealed letter sent to the owner and LHD.

(h) Construction of the wastewater system shall not commence until the system design plans and specifications have been provided to the installer and the signed and dated statement by the installer is provided to the owner as required by G.S. 130A-336.1(e)(4)(b) or G.S. 130A-336.2(e)(3). The owner shall be responsible for preventing modifications or alterations of the site for the wastewater system and the system repair area before, during, and after any construction activities for the facility, unless approved by the licensed professionals.

(i) Prior to the LHD providing written confirmation on the common form for the ATO completeness, the owner, PE, or AOWE shall submit the following to the LHD:

- (1) documentation that all reporting requirements identified in G.S. 130A-336.1(l) or 130A-336.2(l) have been met;
- (2) information set forth in Rule .0301(d) of this Subchapter;
- (3) system start-up documentation, including applicable baseline operating parameters for all components;
- (4) documentation by the owner that all necessary legal agreements, including easements, encroachments, multi-party agreements, and other documents have been prepared, executed, and recorded in accordance with Rule .0301(b) and (c) of this Subchapter;
- (5) installer's name, license number, address, e-mail address, telephone number, and proof of insurance for AOWE only; and
- (6) record drawings.

(j) The owner of a wastewater system approved in accordance with this Rule shall be responsible for maintaining the wastewater system in accordance with the written operation and management program required in G.S. 130A-336.1(i)(1) or 130A-336.2(i)(1) and Section .1300 of this Subchapter.

(k) For repair of a malfunctioning EOP or AOWE system, an NOI shall be submitted in accordance with this Rule. Rule .1306 of this Subchapter shall be followed for repair of a malfunctioning system. The Management Entity shall notify the LHD within 48 hours of the system malfunction.

(l) The owner of an EOP or AOWE system who proposes to change the use of the facility shall contact the licensed professionals on the NOI to determine whether the current system would continue to comply with the Rules of this Subchapter for the proposed change of use. The licensed professionals shall determine what, if any, modifications shall be necessary for the wastewater system to continue to comply with the Rules of this Subchapter following the proposed change of use. An NOI reflecting the change of use and any required modifications to the system shall be submitted to the LHD. The permitting process set forth in this Rule shall be followed.

(m) For EOP and AOWE systems, the LHD shall:

- (1) file all EOP and AOWE documentation consistent with current permit filing procedures at the LHD;
- (2) revoke an IP or CA for a wastewater system prior to issuing written confirmation of the NOI for the same design unit on the same property, if applicable;
- (3) revoke an OP for a wastewater system prior to issuing written confirmation of an ATO for the same design unit on the same property, if applicable;
- (4) submit a copy to the Department of the common form indicating written confirmation of NOI and ATO completeness;
- (5) participate in a post-construction conference in accordance with G.S. 130A-336.1(j) or G.S. 130A-336.2(j);
- (6) review the performance and operation reports submitted and perform on-site compliance inspections of the wastewater system in accordance with Rule .1305(c) and Table XXXII of Rule .1301(b) of this Subchapter;
- (7) investigate complaints regarding EOP and AOWE systems;
- (8) issue a NOV for systems determined to be malfunctioning in accordance with Rule .1303(a)(1) and (2) of this Subchapter. The LHD shall direct the owner to contact the PE, LSS, LG, and installer, as applicable, for determination of the reason of the malfunction and development of an NOI for repairs; and
- (9) require an owner receiving a NOV to pump and haul sewage in accordance with Rule .1306 of this Subchapter.

(n) The owner may contract with different licensed professionals than those originally identified on the initial NOI to complete an EOP or AOWE project. When the owner contracts with different

licensed professionals, a revised NOI reflecting the new licensed professionals and proof of insurance shall be submitted to the LHD.

(o) The owner and all licensed professionals shall comply with all applicable federal, State, and local laws, rules, and ordinances.

*Authority G.S. 130A-335; 130A-336.1; 130A-336.2; S.L. 2019-151, s.14.*

## **SECTION .0300 - RESPONSIBILITIES**

### **15A NCAC 18E .0301 OWNERS**

(a) The owner of a wastewater system shall:

- (1) apply in accordance with Section .0200 of this Subchapter;
- (2) comply with G.S. 130A, Article 11, the Rules of this Subchapter, and permit conditions regarding wastewater system location, including repair area;
- (3) identify property lines and fixed reference points in the field prior to the LHD site evaluation;
- (4) make the site accessible for the site evaluation described in Rule .0501 of this Subchapter;
- (5) field stake or otherwise mark the proposed facility location and all associated appurtenances, such as vehicular traffic areas, garage, swimming pool, shed, entryways, decks, etc.;
- (6) provide for pits with excavated steps or a ramp in the pit that allow for ingress and egress when necessary for a soil and site evaluation at the site as determined by the LHD or the Department in accordance with Rule .0501 of this Subchapter;
- (7) provide for system operation, maintenance, monitoring, and reporting, including access for system maintenance;
- (8) maintain artificial drainage systems, as applicable;
- (9) prevent encroachment on the initial wastewater system and repair area by utilities, structures, vehicular traffic areas, etc.;
- (10) provide documentation supporting an exemption from the minimum setback requirements in Rule .0601(a) of this Subchapter to the LHD, as applicable;
- (11) establish and maintain site-specific vegetation over the dispersal field and repair area; and
- (12) repair a malfunctioning system as necessary in accordance with this Subchapter.

(b) The entire initial wastewater system and repair area shall be on property owned or controlled by the wastewater system owner. An easement or encroachment agreement shall be required for the permitting of any of the following installations:

- (1) any part of the wastewater system is located in a common area with other wastewater systems;

- (2) any part of the wastewater system is located in an area with multiple or third-party ownership or control;
- (3) any part of the wastewater system is proposed to be in an off-site area; or
- (4) any part of the wastewater system and the facility are located on different lots or tracts of land and cross a property line or right-of-way.

(c) Any necessary easements, rights-of-way, or encroachment agreements shall be obtained prior to the issuance of a CA. The easement, right-of-way, or encroachment agreement shall meet the following conditions:

- (1) be appurtenant to specifically described property and run with the land;
- (2) not be affected by change of ownership or control;
- (3) remain valid for as long as the wastewater system is required for the facility that it is designed to serve;
- (4) include a description of the uses being granted and shall include ingress, egress, and regress, system installation, operation, maintenance, monitoring, and repairs and any other activity required to remain in compliance with this Subchapter, including that the easement, right-of-way, or encroachment remain free of structures, landscaping, or any other activities that would interfere with the use of the easement or encroachment for its intended purpose;
- (5) specify in a deed by metes and bounds description the area or site required for the wastewater system and repair area, including collection sewers, tanks, raw sewage lift stations, distribution devices, and dispersal fields; and
- (6) be recorded with the register of deeds in the county where the system and facility are located.

(d) Prior to OP issuance for a system required to be designed by an authorized designer or PE, the owner shall submit to the LHD a statement signed by the authorized designer or PE specifying that the system has been installed in accordance with the permitted design. For systems designed by a PE, the statement shall be affixed with the PE seal.

*Authority G.S. 130A-335.*

#### **15A NCAC 18E .0302 LOCAL HEALTH DEPARTMENT AND DEPARTMENT**

(a) The permitting of a wastewater system shall be the responsibility of agents authorized by the Department in accordance with G.S. 130A, Article 4 and 15A NCAC 01O .0100, and registered with the North Carolina State Board of Environmental Health Specialist Examiners, as required in G.S. 90A, Article 4, unless the permit is issued in accordance with G.S. 130A-336.1 or G.S. 130A-336.2 and Rule .0207 of this Subchapter.

(b) When the wastewater system crosses county lines or the facility is in one county and the wastewater system is in another county, the LHD in the county that assesses property taxes on the facility shall implement the requirements of this Subchapter.

(c) The LHD shall issue an NOV to the owner in the following situations:

- (1) the wastewater system is malfunctioning in accordance with Rule .1303(a)(1) and (2) of this Subchapter;
- (2) the wastewater system creates or has created a public health hazard or nuisance by effluent surfacing, or effluent discharging into groundwater or surface waters;
- (3) the wastewater system is partially or totally destroyed, such as components that are crushed, broken, damaged, or otherwise rendered unusable or ineffective so that the component will not function as designed;
- (4) the owner does not meet the ownership and control requirements of Rule .0301(b) of this Section;
- (5) the wastewater system was installed without a permit issued in accordance with Section .0200 of this Subchapter; or
- (6) the facility was expanded without a permit issued in accordance with Section .0200 of this Subchapter.

(d) The authorized agent shall issue a written notice of non-compliance to the owner when the wastewater system is non-compliant with G.S. 130A, Article 11, the Rules of this Subchapter, or the performance standards or conditions in the OP or ATO.

(e) The Department shall review and approve the wastewater system, including design, layout, plans, and specifications for all wastewater systems that serve a facility with a cumulative DDF greater than 3,000 gpd, as determined in Section .0400 of this Subchapter. The Department shall also review and approve plans and specifications for the following:

- (1) IPWW systems required by this Section to be designed by a PE unless the wastewater has been determined to not be IPWW in accordance with Rule .0303(a)(17) of this Section;
- (2) advanced pretreatment or drip dispersal systems not previously approved by the Department; and
- (3) any other system so specified by the authorized agent.

(f) Department review shall not be required when the cumulative DDF for the facility is greater than 3,000 gpd as determined in Section .0400 of this Subchapter and:

- (1) the wastewater system is made up of an individual wastewater system that serves an individual dwelling unit or several individual wastewater systems, each serving an individual dwelling unit; or
- (2) the wastewater system meets the following criteria:

- (A) the individual wastewater system(s) serves individual design units with a DDF less than or equal to 1,500 gpd;
- (B) the initial and repair dispersal fields for each individual wastewater system(s) is, at a minimum, 20 feet from any other individual wastewater system;
- (C) the total DDF for all dispersal fields is less than or equal to 1,500 gpd per acre based on the portion of the land containing the dispersal fields; and
- (D) the wastewater is not HSE as identified in Section .0400 of this Subchapter.

(g) Department review shall not be required when a PE calculates the proposed DDF to be less than or equal to 3,000 gpd based on engineering design utilizing low-flow fixtures and low-flow technologies in accordance with Rule .0403(e) of this Subchapter.

Pursuant to S.L. 2013-413, s.34, as revised by S.L. 2014-120, s.53, neither the Department nor any LHD shall be liable for a system approved or permitted in accordance with this Paragraph.

(h) For systems that require Department review and approval, an IP shall not be issued by the LHD until the site plan or plat and system layout, including details for any proposed site modifications, are approved by the Department. A CA shall not be issued by the LHD until plans and specifications, submitted in accordance with Rule .0304 of this Section, are approved by the Department in accordance with these Rules and engineering practices.

(i) The Department shall provide technical assistance to the LHD as needed for interpretation of this Subchapter, in accordance with the recognized principles and practices of soil science, geology, engineering, and public health.

*Authority G.S. 130A-335.*

#### **15A NCAC 18E .0303 LICENSED OR CERTIFIED PROFESSIONALS**

(a) Any wastewater system that meets one or more of the following conditions shall be designed by a PE if required in G.S. 89C:

- (1) the system has a DDF greater than 3,000 gpd, as determined in Section .0400 of this Subchapter, except where the system is limited to an individual wastewater system serving an individual dwelling unit or multiple individual wastewater systems, each serving an individual dwelling unit;
- (2) the system requires advanced pretreatment or drip dispersal and is not a system approved under Sections .1500, .1600, or .1700 of this Subchapter;
- (3) pressure dispersal systems that require pumping more than 500 feet horizontally or more than 50 feet of net elevation head;
- (4) pressure dosed gravity distribution systems that require pumping more than 1,000 feet

- horizontally or more than 100 feet of net elevation head;
- (5) dosing systems or force mains that have one or more intermediate high points greater than five feet;
- (6) the system requires pumping downhill to a pressure dosed gravity or pressure dispersal field where the volume of the supply line that could drain to the dispersal field between doses exceeds 25 percent of the required dose volume;
- (7) pressure dispersal systems and pressure dosed gravity systems with a DDF greater than 600 gpd serving a single design unit;
- (8) pressure dispersal systems where there is more than 15 percent variation in line length. The 15 percent variation shall be measured by comparing the longest line length to the shortest line length in any dispersal field;
- (9) two or more septic tanks or advanced pretreatment units, each serving a separate design unit, and served by a common dosing tank;
- (10) a STEP system with a pressure sewer or other pressure sewer system receiving effluent from two or more pump tanks;
- (11) an adjusted DDF is proposed based on the use of low-flow fixtures or low-flow technologies in accordance with Rule .0403(e) of this Subchapter;
- (12) the system requires use of sewage pumps prior to the septic tank or other pretreatment system, except for systems governed by the North Carolina Plumbing Code or which consist of grinder pumps and associated pump basins that are approved and listed in accordance with standards adopted by NSF International;
- (13) an individual system is required to use more than one pump or siphon in a single pump tank. Examples include dual pumps as set forth in Rule .1101(b) of this Subchapter;
- (14) the system includes a collection sewer prior to the septic tank or other pretreatment system serving two or more design units, except for systems governed by the North Carolina Plumbing Code;
- (15) the wastewater system includes structures that have not been pre-engineered;
- (16) the proposed pump model is not listed by a third-party electrical testing and listing agency;
- (17) the system is designed for the collection, treatment, and dispersal of IPWW, except under the following circumstances:
  - (A) the Department has determined that the wastewater generated by the proposed facility has a pollutant strength that is lower than or equal to DSE and does not require specialized treatment or management. This

determination shall be made based on a review of the wastewater generating process, wastewater characteristic data, and material safety data sheets, as compared to DSE; or

(B) the Department has approved a treatment system or process and management method proposed by the facility owner that generates effluent with a pollutant strength which is lower than or equal to DSE. This approval shall be based on a review of documentation provided in conjunction with prior project specific reviews or a PIA approval. This approval shall be based on data from other facilities, management practices, and other information provided by the owner;

- (18) the wastewater system is designed for RCW;
- (19) any wastewater system designed by a licensed professional that has been determined to be within the practice of engineering in accordance with G.S. 89C-3(6) by the North Carolina Board of Examiners for Engineers and Surveyors;
- (20) any wastewater system approved in accordance with Sections .1500, .1600, and .1700 of this Subchapter that requires in the RWTS or PIA Approval that the system be designed by a PE;
- (21) any system or system component where the Rules of this Subchapter provide for an engineer to propose alternative materials, capacity determination, or performance requirements; and
- (22) any other system so specified by the LHD, based on wastewater system complexity and LHD's experience with the proposed system type.

(b) A PE, in accordance with G.S. 89C, may propose an alternative design for a facility projected to generate HSE in accordance with Rule .0401(h) of this Subchapter. The alternative design shall include supporting documentation showing that the proposed system design will meet DSE in Table III of Rule .0402(a) of this Subchapter. The alternative design shall be reviewed and approved by the Department unless the system has been approved in accordance with Section .1700 of this Subchapter.

(c) Plans and specifications for the use of a groundwater lowering system to comply with the vertical separation to a SWC shall be prepared by a licensed professional if required in G.S. 89C, 89E, or 89F. Prior to the issuance of an IP or CA, the plans and specifications shall be reviewed and approved by the authorized agent if the plans and specifications meet the requirements of Rules .0504 and .0910 of this Subchapter and accepted design practices.

(d) An installer shall construct, install, or repair wastewater systems as required by G.S. 90A, Article 5. The installer shall be responsible for the following:

- (1) certification at the required level according to the system design specifications as required by G.S. 90A, Article 5;
- (2) notification to the LHD upon completion of the system installation and each stage requiring inspection as conditioned on a CA;
- (3) participation in a preconstruction conference when specified in the CA or by the RWTS or PIA Approval;
- (4) participation during the inspection of the wastewater system by the authorized agent;
- (5) participation during the post-construction conference and all other requirements when the wastewater system is permitted in accordance with Rule .0207 of this Subchapter and G.S. 130A-336.1 or G.S. 130A-336.2; and
- (6) final cover of the system after LHD approval. The wastewater system shall be in the same condition when covered as when approved.

(e) The Management Entity, or its employees, shall hold a valid and current certificate or certifications as required for the system from the Water Pollution Control Systems Operators Certification Commission. Nothing in this Subchapter shall preclude any requirements for system Management Entities in accordance with G.S. 90A, Article 3.

(f) Nothing in this Rule shall be construed as allowing any licensed professional to provide services for which he or she has neither the educational background, expertise, or license to perform, or is beyond his or her scope of work and the applicable statutes for their respective professions.

(g) The PE or authorized designer shall provide a written statement to the owner specifying that construction is complete and in accordance with approved plans, specifications, and modifications. This statement shall be based on periodic observations of construction and a final inspection for design compliance. Record drawings shall be provided to the owner and LHD when any change has been made to the wastewater system installation from the approved plans.

Authority G.S. 89C; 89E; 89F; 90A; 130A-335.

#### **15A NCAC 18E .0304 SUBMITTAL REQUIREMENTS FOR PLANS, SPECIFICATIONS, AND REPORTS PREPARED BY LICENSED PROFESSIONALS FOR SYSTEMS OVER 3,000 GALLONS/DAY**

All wastewater systems with a DDF greater than 3,000 gpd shall be designed by a PE, with site evaluation by an LSS, and LG, as applicable, in accordance with G.S. 89C, 89E, and 89F. The wastewater system plans, specifications, and reports shall contain the information necessary for construction of the wastewater system. Plans, specifications, and reports shall include the following information:

- (1) Applicant information and DDF determination:
  - (a) the seal, signature, and the date on all plans, specifications, and reports prepared by the PE, LSS, and any other licensed or registered professionals who contributed to the plans, specifications, or reports;

- (b) name, address, and phone number for the owner and all licensed professionals who have prepared plans, specifications, and reports for the wastewater system; and
  - (c) DDF and projected wastewater strength based on the application submitted to the LHD that includes calculations and the basis for the proposed DDF and wastewater strength.
- (2) Special site evaluation in accordance with Rule .0510 of this Subchapter, including soil and site evaluation, hydraulic and hydrologic assessment reports, and site plans:
- (a) soil and site evaluation report, written by the LSS, on the field evaluation of the soil conditions and site features within the proposed initial and repair dispersal field areas including the following:
    - (i) vertical soil profile descriptions for pits and soil borings in accordance with Section .0500 of this Subchapter;
    - (ii) recommended LTAR, system type, trench width, length, depth on downslope side of trench for proposed initial and repair dispersal field areas with justification;
    - (iii) soil and site-based criteria for dispersal field design and site modifications;
    - (iv) for sites originally classified unsuitable, written documentation indicating that the proposed system can be expected to function in accordance with Rule .0509(c) of this Subchapter; and
    - (v) recommended effluent standard for proposed initial and repair dispersal field areas with justification; and
  - (b) hydraulic assessment reports on site-specific field information that shall include:
    - (i) in-situ Ksat measurements at the proposed infiltrative surface elevation where possible and at each distinct horizon within and beneath the treatment zone to a depth of 48 inches below the ground surface or to a depth referenced in an associated hydraulic assessment, such as groundwater mounding analysis or lateral flow analysis;
    - (ii) logs from deep borings identifying restrictive layers, changes in texture and density, and aquifer boundaries;
    - (iii) groundwater mounding for level sites or lateral flow analysis for sloping sites in accordance with Rule .0510(e) of this Subchapter, as applicable; and
    - (iv) contaminant transport analysis showing projected compliance with groundwater standards at property lines or at the required setback from water supply sources within the property, as applicable;
- (3) Site plan prepared by the PE based on a boundary survey prepared by a registered land surveyor with the following information:
- (a) site topography, proposed site modifications, location of existing and proposed site features listed in Rule .0601 of this Subchapter, proposed facility location, location of proposed initial and repair dispersal field areas and types, and location of LSS soil pits, hand auger borings, deep borings, and in-situ Kats tests, as applicable;
  - (b) existing and proposed public wells or water supply sources on the property or within 500 feet of any proposed initial and repair dispersal field areas;
  - (c) existing and proposed private wells or water supply sources within 200 feet of existing or proposed system component locations;
  - (d) other existing and proposed wells, existing and proposed water lines including fire protection, irrigation, etc., within the property boundaries and within 10 feet of any projected system component;
  - (e) surface waters with water quality classification, jurisdictional wetlands, and existing and proposed stormwater management drainage features and groundwater drainage systems;
  - (f) topographic map with two-foot contour intervals or spot elevations when there is less than a two-foot elevation difference across the site identifying areas evaluated for initial

- and repair dispersal field areas, proposed location of trenches, and pits and soil borings labeled to facilitate field identification;
  - (g) location of tanks and advanced pretreatment components, including means of access for pumping and maintenance; and
  - (h) any site modifications and site and slope stabilization plans.
- (4) System components design, installation, operation, and maintenance information:
  - (a) collection systems and sewers:
    - (i) plan and profile drawings, including location, pipe diameter, invert and ground surface elevations of manholes and cleanouts;
    - (ii) proximity to utilities and site features listed in Rule .0601 of this Subchapter;
    - (iii) drawings of service connections, manholes, cleanouts, valves and other appurtenances, aerial crossings, road crossings, water lines, stormwater management drainage features, streams, or ditches; and
    - (iv) installation and testing procedures and pass or fail criteria;
  - (b) tank information:
    - (i) plan and profile drawings of all tanks, including tank dimensions and all elevations;
    - (ii) access riser, manhole, chamber interconnection, effluent filter, and inlet and outlet details;
    - (iii) construction details for built-in-place tanks, including dimensions, reinforcement details and calculations, and construction methods;
    - (iv) identification number for Department approved tanks;
    - (v) installation criteria and water tightness testing procedures with pass or fail criteria; and
    - (vi) anti-buoyancy calculations and provisions;
  - (c) pump stations, including raw sewage lift stations and pump tanks:
    - (i) information required in Sub-item (4)(b) of this Rule;
    - (ii) specifications for pumps, discharge piping, pump removal system, and all related appurtenances;
    - (iii) dosing system total dynamic head calculations, pump specifications, pump curves and expected operating conditions, including dosing, flushing, etc.;
    - (iv) control panel, floats and settings, high-water alarm components, location, and operational description under normal and high-water conditions;
    - (v) emergency storage capacity calculations, timer control settings, and provisions for stand-by power; and
    - (vi) lighting, ventilation, if applicable, wash-down water supply with back siphon protection, and protective fencing;
  - (d) advanced pretreatment systems:
    - (i) information required in Sub-items (4)(b) and (c) of this Rule;
    - (ii) drawings and details showing all advanced pretreatment units and appurtenances such as pumps, valves, floats, etc., size and type of piping, disinfection unit, blowers if needed, location of control panels, height of control panels, etc; and
    - (iii) documentation from the manufacturer supporting the proposed design and use of the advanced pretreatment system to achieve specified effluent standards if not otherwise approved by the Department in accordance with Section .1700 of this Subchapter;
  - (e) dispersal field plans and specifications with design and construction details:
    - (i) final field layout, including ground elevations based on field measurements at a maximum of two-foot intervals or spot elevations when there is less than a two-foot elevation difference across the site;

- (ii) trench plan and profile drawings, including cross sectional details, length, spacing, connection details, cleanouts, etc., and invert elevations for each lateral;
- (iii) manifolds, supply lines, pipe sizes, cleanouts and interconnection details, and invert elevations;
- (iv) flow distribution device design;
- (v) artificial drainage system locations, elevations, discharge points, and design details, as applicable;
- (vi) site preparation procedures;
- (vii) construction phasing and wastewater system testing; and
- (viii) final landscaping and compliance with erosion control requirements, such as site stabilization procedures and drainage;
- (f) materials specification for all materials to be used, methods of construction, means for assuring the quality and integrity of the finished product; and
- (g) operation and maintenance procedures for the Management Entity, inspection schedules, and maintenance specifications for mechanical components and dispersal field vegetative cover; and
- (5) any other information determined to be applicable by the LHD or the Department, such as the impact of projected wastewater constituents on the trench and receiving soil.
- Authority G.S. 130A-335.*

**15A NCAC 18E .0305 SUBMITTAL REQUIREMENTS FOR PLANS, SPECIFICATIONS, AND REPORTS PREPARED BY LICENSED PROFESSIONALS FOR SYSTEMS LESS THAN OR EQUAL TO 3,000 GALLONS/DAY**

Plans, specifications, and reports for wastewater systems with a DDF less than or equal to 3,000 gpd that are required to be prepared by an LSS or PE, if required in G.S. 89C or 89E, shall include the information required by the following:

- (1) Rule .0304(1) of this Section;
- (2) Rule .0304(2) of this Section for special site evaluations and submittals prepared under Rule .0510 of this Subchapter; and
- (3) Rule .0304(4) of this Section for advanced pretreatment and IPWW.
- Authority G.S. 130A-335.*

**SECTION .0400 – DESIGN DAILY FLOW AND EFFLUENT CHARACTERISTICS**

**15A NCAC 18E .0401 DESIGN DAILY FLOW**

(a) The minimum DDF for dwelling units shall be based on:

- (1) 175 gpd for a one bedroom dwelling unit with no more than two occupants and 400 square feet of living space or less;  
or  
 (2) 120 gpd per bedroom with a minimum of 240 gpd per dwelling unit or 60 gpd per person when occupancy exceeds two persons per bedroom, whichever is greater.

(b) DDF for facilities other than dwelling units shall be in accordance with Table II as follows:

**TABLE II.** Design daily flow for Facilities

<b><u>Facility type</u></b>	<b><u>Design daily flow</u></b>
<b><u>Commercial</u></b>	
<u>Airports, railroad stations, bus and ferry terminals, etc.</u>	<u>5 gal/traveler, food preparation not included</u>
<u>Barber shops</u>	<u>50 gal/chair</u>
<u>Bars, cocktail lounges</u>	<u>20 gal/seat, food preparation not included</u>
<u>Beauty shops, style shops, hair salons</u>	<u>125 gal/chair</u>
<u>Bed and breakfast homes and inns</u>	<u>Dwelling unit DDF based on Paragraph (a) of this Rule plus</u> <u>120 gal/rented room which includes the following:</u> <u>Meals served to overnight guests</u> <u>Laundry for linens</u> <u>150 gal/room with cooking facilities in individual rooms</u>
<u>Event Center</u>	<u>5 gal/person with toilets and hand sinks up to 4 hrs</u> <u>10 gal/person with toilets and hand sinks up to 8 hrs</u> <u>15 gal/person with toilets and hand sinks greater than 8 hrs</u> <u>Add 5 gal/person with full kitchen</u>



**PROPOSED RULES**

<u>Markets open less than four days/week, such as a flea market or farmers market</u>	<u>30 gal/stall or vendor, food preparation not included</u>
<u>Marinas with no holding tank discharge included</u>	<u>30 gal/boat slip, with bathhouse</u> <u>10 gal/boat slip, wet slips or slips on dock</u> <u>5 gal/boat slip, dry storage or warehouse</u>
<u>Motels/hotels</u>	<u>120 gal/room includes the following:</u> <u>No cooking facilities in individual rooms other than a microwave or other similar devices</u> <u>No food service or limited food service establishment</u> <u>Laundry for linens</u> <u>150 gal/room with cooking facilities in individual rooms</u>
<u>Offices and factories with no IPWW included</u>	<u>12 gal/employee/&lt; 8 hr shift</u> <u>Add 2 gal/employee/hr for more than 8 hr shift</u> <u>Add 10 gal/employee for showers</u>
<u>Stores, shopping centers, and malls</u>	<u>100 gal/1,000 ft<sup>2</sup> of retail sales area, food preparation not included</u>
<u>Warehouse that are not retail sales warehouses</u>	<u>100 gal/loading bay or</u> <u>12 gal/employee/&lt; 8 hr shift</u> <u>Add 2 gal/employee/hr for more than 8 hr shift</u>
<u>Storage warehouse including self-storage facilities and does not include caretaker residence</u>	<u>12 gal/employee/&lt; 8 hr shift</u> <u>Add 2 gal/employee/hr for more than 8 hr shift</u>
<u>Alcoholic beverage tasting areas with no process wastewater included</u>	<u>200 gal/1,000 ft<sup>2</sup> of tasting area floor space and includes glass washing equipment</u> <u>Food preparation and food clean up not included</u> <u>12 gal/employee/&lt; 8 hr shift</u>
<b><u>Camps/Campgrounds</u></b>	
<u>Summer camps with overnight stays*</u>	<u>60 gal/person, applied as follows:</u> <u>15 gal/person/food preparation</u> <u>20 gal/person/toilet facilities</u> <u>10 gal/person/bathing facilities</u> <u>15 gal/person/laundry facilities</u>
<u>Day camps not inclusive of swimming area bathhouse*</u>	<u>20 gal/person and</u> <u>5 gal/meal served with multiuse service or</u> <u>3 gal/meal served with single-service articles</u>
<u>Temporary Labor Camp or Migrant Housing Camp with overnight stays*</u>	<u>60 gal/person, applied as follows:</u> <u>15 gal/person/food preparation</u> <u>20 gal/person/toilet facilities</u> <u>10 gal/person/bathing facilities</u> <u>15 gal/person/laundry facilities</u>
<u>Travel trailer or RV in an RV park*</u>	<u>100 gal/space</u>
<u>Recreational Park Trailer or Park Model Trailer 400 ft<sup>2</sup> or less in an RV park*</u>	<u>150 gal/space</u>
<u>Bathhouse for campsites and RV park sites with no water and sewer hook ups with a maximum of four people per campsite</u>	<u>70 gal/campsite</u>
<b><u>Food preparation facilities</u></b>	
<u>Food Establishments with multiuse articles*</u>	<u>25 gal/seat or 25 gal/15 ft<sup>2</sup> of floor space open 6 hrs/day or less</u> <u>40 gal/seat or 40 gal/15 ft<sup>2</sup> of floor space open 6 to 16 hrs/day</u> <u>Add 4 gpd/seat for every additional hour open beyond 16 hrs</u>
<u>Food Establishments with single service articles*</u>	<u>20 gal/seat or 20 gal/15 ft<sup>2</sup> of floor space open 6 hrs/day or less</u> <u>30 gal/seat or 30 gal/15 ft<sup>2</sup> of floor space open 6 to 16 hrs/day</u> <u>Add 3 gpd/seat for every additional hour open beyond 16 hrs</u>
<u>Food stand with up to eight seats, mobile food units, and commissary kitchens*</u>	<u>50 gal/100 ft<sup>2</sup> of food stand, food unit, or food prep floor space and</u> <u>12 gal/employee/&lt; 8 hr shift</u> <u>Add 2 gal/employee/hr for more than 8 hr shift</u>
<u>Other food service facilities*</u>	<u>5 gal/meal served with multiuse articles</u> <u>3 gal/meal served with single service articles</u>

**PROPOSED RULES**

<u>Meat markets or fish markets with no process wastewater included*</u>	<u>50 gal/100 ft<sup>2</sup> of floor space and</u> <u>12 gal/employee/≤ 8 hr shift</u> <u>Add 2 gal/employee/hr for more than 8 hr shift</u>
<b><u>Health care and other care institutions</u></b>	
<u>Hospitals*</u>	<u>300 gal/bed</u>
<u>Rest homes, assisted living homes, and nursing homes*</u>	<u>150 gal/bed with laundry</u> <u>75 gal/bed without laundry</u> <u>Add 60 gal/resident employee with laundry</u>
<u>Day care facilities</u>	<u>15 gal/person open ≤ 12 hr shift without laundry</u> <u>Add 1 gal/person/hr open for more than 12 hrs per day</u> <u>Add 5 gal/person with full kitchen</u>
<u>Group homes, drug rehabilitation, mental health, and other care institutions</u>	<u>75 gal/person with laundry</u>
<u>Orphanages</u>	<u>60 gal/student or resident employee with laundry</u>
<b><u>Public access restrooms</u></b>	
<u>Convenience store, service station, truck stop*</u>	<u>250 gal/toilet or urinal meeting the following:</u> <u>Open less than 16 hrs/day</u> <u>Food preparation not included</u> <u>Retail space not included</u> <u>325 gal/toilet or urinal meeting the following:</u> <u>Open 16 to 24 hrs/day</u> <u>Food preparation not included</u> <u>Retail space not included</u>
<u>Highway rest areas and visitor centers*</u>	<u>325 gal/toilet or urinal or</u> <u>10 gal/parking space, whichever is greater</u>
<b><u>Recreational facilities</u></b>	
<u>Bowling center</u>	<u>50 gal/lane, food preparation not included</u>
<u>Community center, gym∞</u>	<u>5 gal/person plus 12 gal/employee/≤ 8 hr shift</u> <u>Add 2 gal/employee/hr for more than 8 hr shift or</u> <u>50 gal/100 ft<sup>2</sup>, whichever is greater</u>
<u>Country club or golf course</u>	<u>10 gal/person</u> <u>12 gal/employee/≤ 8 hr shift</u> <u>Add 2 gal/employee/hr for more than 8 hr shift</u> <u>3 gal/person for convenience stations</u> <u>Food preparation not included</u>
<u>Fairground</u>	<u>250 gal/toilet or urinal</u>
<u>Fitness center, spas, karate, dance, exercise∞</u>	<u>50 gal/100 ft<sup>2</sup> of floor space used by clientele</u> <u>Food preparation not included</u>
<u>Recreational park, State park, county park, and other similar facilities with no sports facilities</u>	<u>10 gal/parking space</u>
<u>Outdoor sports facilities, mini golf, batting cages, driving ranges, motocross, athletic park, ball fields, stadium, and other similar facilities</u>	<u>250 gal/toilet or urinal, 5 gal/seat, or 10 gal/parking space, whichever is greater</u> <u>Food preparation not included</u>
<u>Auditorium, theater, amphitheater, drive-in theater</u>	<u>2 gal/seat or 10 gal/parking space, whichever is greater</u> <u>Food preparation not included</u>
<u>Swimming pools and bathhouses</u>	<u>5 gal/person domestic waste only, bathing load of pool may be used as an alternative method of sizing</u>
<u>Sports facilities courts or other similar facilities</u>	<u>250 gal/toilet or urinal or 50 gal/court, whichever is greater</u>
<b><u>Institutions</u></b>	
<u>Church or other religious institution*</u>	<u>2 gal/seat sanctuary only</u> <u>3 gal/seat with warming kitchen in same structure as sanctuary</u> <u>5 gal/seat with full kitchen in same structure as sanctuary</u>
<u>Public or private assembly halls used for recreation, regularly scheduled meetings, events, or amusement∞*</u>	<u>2 gal/person with toilets and hand sinks</u> <u>3 gal/person with addition of a warming kitchen</u> <u>5 gal/person with full kitchen</u>

For churches, flow shall be in addition to sanctuary structure flow	
<b>Schools</b>	
Day schools*	6 gal/student with no cafeteria or gymnasium 9 gal/student with cafeteria only 12 gal/student with cafeteria and gymnasium
After school program	5 gal/student in addition to flow for regular school day
Boarding schools	60 gal/student and resident employee with laundry

\* Facility has potential to generate HSE.

∞ Designer shall use the maximum building occupancy assigned by the local fire marshal in calculating DDF unless another method for determining DDF is proposed, including the justification for not using the maximum building occupancy.

(c) The minimum DDF from any facility other than a dwelling unit shall be 100 gpd. For facilities with multiple design units, the minimum DDF shall be 100 gpd per design unit. The DDF of the facility shall be the sum of all design unit flows.

(d) DDF determination for wastewater systems with facilities not identified in this Rule shall be determined using available water use data, capacity of water-using fixtures, occupancy or operation patterns, and other measured data from the facility itself or a comparable facility.

(e) Where laundry is not specified for a facility in Table II, but is proposed to be provided, the DDF shall be adjusted to account for the proposed usage and machine water capacity. The owner shall provide cut-sheets for laundry machines proposed for use in facilities.

(f) HVAC unit or ice machine condensate, gutter or sump pump discharge, water treatment system back flush lines, or similar incidental flows shall not discharge to the wastewater system, unless a PE designs the wastewater system for these flows.

(g) Unless otherwise noted in Table II, the DDF per unit includes employees.

(h) Food service facilities and other facilities that are projected to generate wastewater with constituent levels greater than DSE, as defined in Rule .0402 of this Section, are identified in Table II with a single asterisk (\*) as HSE. Any facility that has a food service component that contributes 50 percent or more of the DDF shall be considered to generate HSE. Determination of wastewater strength shall be based on projected or measured levels of one or more of the following: BOD, TSS, FOG, or TN. Table III of Rule .0402(a) of this Section identifies the constituent limits for DSE.

(i) Wastewater with constituents other than those listed in Table III of Rule .0402(a) of this Section may be classified as IPWW as defined in G.S. 130A-334(2a) on a site-specific basis.

(j) A request for an adjusted DDF shall be made in accordance with Rule .0403 of this Section.

Authority G.S. 130A-335(e); S.L. 2013-413, s.34; S.L. 2014-120, s.53.

#### **15A NCAC 18E .0402 SEPTIC TANK EFFLUENT CHARACTERISTICS**

(a) Septic tank effluent standards for DSE shall be as set forth in Table III of this Paragraph. Effluent that exceeds these standards for any constituent shall be considered HSE. When measured, effluent characteristics shall be based on at least two effluent samples collected during normal or above-normal operating

periods. A normal period is when the occupancy, operation, or use of the facility is average when compared to the occupancy,

operation, or use over a time frame of a minimum of one year. The samples shall be taken from the existing or a comparable facility on non-consecutive days of operation. A comparable facility is based on documentation showing that the hours of operation, floor plan, water use practices, water-using fixtures, location, etc., are similar to the facility listed in the application. The samples shall be analyzed for a minimum of BOD<sub>5</sub>, TSS, TN, and FOG.

**Table III. Septic tank effluent standards for DSE**

<u>Constituent</u>	<u>Maximum DSE mg/L</u>
<u>BOD</u>	<u>≤ 350</u>
<u>TSS</u>	<u>≤ 100</u>
<u>TN*</u>	<u>≤ 100</u>
<u>FOG</u>	<u>≤ 30</u>

\*TN is the sum of TKN, nitrate nitrogen, and nitrite nitrogen

(b) Designs for facilities that generate HSE or when an adjusted DDF is proposed in accordance with Rule .0403 shall address the issue of wastewater strength in accordance with one of the following:

- (1) Wastewater systems that meet one of the following criteria shall utilize advanced pretreatment, designed in accordance with Rule .1201(b) of this Subchapter, to produce DSE or better prior to dispersal:
  - (A) DDF greater than 1,500 gpd and HSE;
  - (B) any proposed flow reduction in accordance with Rule .0403 of this Section where the DDF is greater than 1,500 gpd; or
  - (C) any proposed flow reduction in accordance with Rule .0403 of this Section with projected or measured effluent characteristics that exceed DSE as set forth in Table III of this Rule; or
- (2) A licensed professional, in accordance with G.S. 89C, 89E, or 89F, may justify not using advanced pretreatment by providing the following, as applicable:

- (A) the system design is determined based upon a mass loading adjusted LTAR calculated using site-specific LTAR and projected or measured BOD<sub>5</sub> and TSS values. The adjusted LTAR calculations shall be done as follows:

	<u>MLAF</u>	<u>=</u>	<u>300/(BOD<sub>5</sub> + TSS) or one, whichever is smaller</u>
	<u>ALTAR</u>	<u>=</u>	<u>MLAF x LTAR</u>
<u>Where</u>	<u>MLAF</u>	<u>=</u>	<u>mass loading LTAR adjustment factor</u>
	<u>BOD<sub>5</sub></u>	<u>=</u>	<u>measured or projected</u>
	<u>TSS</u>	<u>=</u>	<u>measured or projected</u>
	<u>LTAR</u>	<u>=</u>	<u>LTAR assigned by the authorized agent for DSE in accordance with this Subchapter</u>
	<u>ALTAR</u>	<u>=</u>	<u>adjusted LTAR</u>

- (B) site-specific nitrogen migration analysis when projected or measured effluent total nitrogen levels are greater than 100 mg/L. Analysis shall demonstrate that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L; and
- (C) additional pretreatment to reduce FOG to less than or equal to 30 mg/L, including justification for the proposed pretreatment method.
- (B) readings by the sum of the 30 consecutive daily water consumption readings. The hydraulic peaking factor shall not be less than one; and
- (B) the adjusted DDF shall be calculated by multiplying the numerical average of the greatest 10 percent of the daily readings by the hydraulic peaking factor; or
- (2) the adjusted DDF shall be calculated by multiplying the highest of the 12 monthly readings by 1.5 and then dividing by the number of days in the month.

(c) The requirements of Paragraph (b) shall not apply if the effluent for a specific facility identified in Rule .0401 of this Section as HSE has been measured in accordance with Paragraph (a) of this Rule and shown to be DSE.

*Authority G.S. 130A-335(e); S.L. 2013-413, s.34; S.L. 2014-120, s.53.*

#### **15A NCAC 18E .0403 ADJUSTMENTS TO DESIGN DAILY FLOW**

(a) The authorized agent or the Department shall approve an adjusted DDF relative to the values in Table II of Rule .0401(b) of this Section for new or existing facilities in accordance with this Rule. The water use information provided to support the proposed adjusted DDF shall meet the requirements of Paragraphs (b) or (c) of this Rule and may be provided by the owner, designer, or PE. All adjustments to DDF shall meet the requirements of Paragraph (d) of this Rule.

(b) Adjustments to DDF based on documented data from the facility or a comparable facility, as described in Rule .0402(a) of this Section, shall meet one of the following criteria:

- (1) the submitted data shall consist of a minimum of 12 consecutive monthly total water consumption readings, and 30 consecutive daily water consumption readings taken during a projected normal or above normal wastewater flow month. A normal or above normal month is when the average flow equals or exceeds the mean of the 12 consecutive monthly total water consumption readings. The following calculations shall be done with the submitted data:

(A) a hydraulic peaking factor shall be calculated by dividing the highest monthly flow of the 12 monthly

adjustments to DDF based on the proposed use of extreme water-conserving fixtures, which use less water than the fixtures required by the North Carolina Plumbing Code, shall be based upon the capacity of fixtures and documentation of the amount of flow reduction to be expected from their use in the proposed facility. Cut sheets of the proposed fixtures shall be provided to the LHD and the Department, as applicable.

(d) The proposed adjusted DDF shall account for projected increased constituent concentrations due to the reduction in water use. Calculations shall be provided to verify that the criteria in Rules .0402 and .1201 of this Subchapter are met.

(e) Pursuant to S.L. 2013-413, s.34, as revised by S.L. 2014-120, s.53, a PE may propose an adjusted DDF for new or existing dwelling units or facilities identified in Table II of Rule .0401(b) of this Section in accordance with the following:

- (1) DDF less than those listed in Rule .0401 of this Section that are achieved through engineering design that utilizes low-flow fixtures and low-flow technologies;
- (2) comparison of flow from proposed fixtures and technologies to flow from conventional fixtures and technologies;
- (3) the signed and sealed proposal shall account for the site-specific impact on the wastewater system based on projected increased constituent concentrations resulting from reduction in water use in accordance with Rule .0402(b) of this Section;
- (4) inspection of the existing wastewater system and verification that the system meets the Rules of this Subchapter and can accept the increase in constituent loading, as applicable;

- (5) proposed adjusted DDF for wastewater systems determined to be less than or equal to 3,000 gpd shall not require Department review in accordance with Rule .0302(e) of this Subchapter unless requested by the LHD; and
- (6) neither the Department nor any LHD shall be liable for any damages caused by a system approved or permitted in accordance with this Paragraph.

(f) A PE may propose, and the Department shall approve an adjusted DDF for a facility made up of individual dwelling units in accordance with this Rule when the following criteria are met:

- (1) DDF calculated in accordance with this Section is greater than 3,000 gpd;
- (2) adjusted DDF is based on information in Paragraphs (b) or (c) of this Rule; and
- (3) increase in wastewater strength is accounted for in accordance with Paragraph (d) of this Rule.

(g) Adjusted DDF based upon use of water-conserving fixtures shall apply only to design capacity requirements of the dosing system and dispersal fields. The DDF set forth in Rule .0401 of this Section shall be used to determine minimum tank and advanced pretreatment component capacities.

*Authority G.S. 130A-335(e); S.L. 2013-413, s.34; S.L. 2014-120, s.53.*

## **SECTION .0500 – SOIL AND SITE EVALUATION**

### **15A NCAC 18E .0501 SITE EVALUATION**

(a) Upon receipt of an application, an authorized agent shall investigate each proposed site in accordance with this Section to determine whether the site is suitable or unsuitable for the installation of a wastewater system. The field investigation shall include the evaluation of the following soil and site features with written field descriptions including:

- (1) topography, slope, and landscape position;
- (2) soil morphology:
  - (A) depth of horizons;
  - (B) texture;
  - (C) structure;
  - (D) consistence;
  - (E) color; and
  - (F) organic soils, as applicable;
- (3) SWC;
- (4) soil depth;
- (5) restrictive horizons;
- (6) the suitability for each profile description;
- (7) LTAR; and
- (8) available space.

(b) Soil profiles shall be evaluated at the site by borings, pits, or other means of excavation, and described to reflect variations in soil and site characteristics across both initial and repair areas.

(c) Soil profiles shall be evaluated and described to the following minimum depths:

- (1) 48 inches from the ground surface; or
- (2) to a LC determined in accordance with this Section.

(d) Owners may be required to provide pits when necessary for evaluation of the site as determined by the authorized agent, such as for evaluation of saprolite or soil structure.

(e) Based on the evaluation of the soil conditions and site features listed in Paragraph (a) of this Rule, each soil profile shall be classified suitable or unsuitable. The authorized agent shall specify the overall site suitability and classification in accordance with Rule .0509 of this Section.

(f) The authorized agent shall specify the LTAR in accordance with Section .0900 of this Subchapter for sites classified suitable in accordance with Rule .0509 of this Section.

(g) A LC initially classified unsuitable may be reclassified suitable if the requirements of Rule .0509(b) or (c) of this Section are met.

*Authority G.S. 130A-335(e).*

### **15A NCAC 18E .0502 TOPOGRAPHY AND LANDSCAPE POSITION**

(a) Uniform stable slopes less than or equal to 65 percent shall be suitable with respect to topography.

(b) The following shall be unsuitable with respect to topography:

- (1) slopes greater than 65 percent; and
- (2) areas subject to surface water convergence. The site shall be considered suitable when the surface water can be diverted from the site with berms or other surface water diversion devices;

(c) The following shall be unsuitable with respect to landscape position:

- (1) depressions, except when with site modifications in accordance with Rule .0910 of this Subchapter, the site complies with the requirements of this Section;
- (2) a jurisdictional wetland as determined by the U.S. Army Corps of Engineers or DEQ, unless the proposed use is approved in writing by the U.S. Army Corps of Engineers or DEQ; and
- (3) complex slope patterns, such as areas affected by erosion which have rills or evidence of drainage, and slopes dissected by gullies that prohibit the design, installation, maintenance, monitoring, or repair of the wastewater system.

(d) For all sites, except where a drip dispersal system is proposed, additional required soil depth based on slope correction shall be calculated using the following formula to determine site suitability for soil depth in accordance with Rule .0505 of this Section:

$\frac{SD}{SD} =$	$\frac{MSD + (TW \times S)}{SD} =$	$\frac{MSD}{TW} =$	$\frac{TW}{S} =$	$\frac{MSD}{S} =$	
Where	$\frac{SD}{SD} =$	$\frac{MSD + (TW \times S)}{SD} =$	$\frac{MSD}{TW} =$	$\frac{TW}{S} =$	$\frac{MSD}{S} =$
		soil depth required with slope correction, in inches	minimum soil depth, in inches	proposed trench width, in inches	percent slope, in decimal form

*Authority G.S. 130A-335(e).*

### **15A NCAC 18E .0503 SOIL MORPHOLOGY**

The soil morphology shall be evaluated in accordance with the following:

- (1) Texture – The texture of each soil horizon in a profile shall be classified into 12 soil textural classes based upon the relative proportions of sand, silt, and clay sized mineral particles. The soil textural class shall be determined in the field by hand texturing samples of each soil horizon in the soil profile in accordance with the criteria in Guide to Soil Texture by Feel, Journal of Agronomic Education, USDA, NRCS. Table IV identifies the Soil Groups that shall be suitable with respect to texture.

**Table IV.** Soil Groups that are suitable with respect to texture

<b>Soil Group</b>	<b>USDA Soil Textural Class</b>	
<b>I</b>	<u>Sands</u>	<u>Sand</u>
		<u>Loamy Sand</u>
<b>II</b>	<u>Coarse Loams</u>	<u>Sandy Loam</u>
		<u>Loam</u>
<b>III</b>	<u>Fine Loams</u>	<u>Silt</u>
		<u>Silt Loam</u>
		<u>Sandy Clay Loam</u>
		<u>Clay Loam</u>
		<u>Silty Clay Loam</u>
<b>IV</b>	<u>Clays</u>	<u>Sandy Clay</u>
		<u>Silty Clay</u>
		<u>Clay</u>

Laboratory testing of the soil textural class may be substituted for field testing when the laboratory testing is conducted in accordance with ASTM D6913 and D7928. When laboratory testing of soil texture is proposed, the LHD shall be notified a minimum of 48 hours before samples are to be taken by the licensed professional, if required by G.S. 89C, 89E, or 89F. The authorized agent and the licensed professional shall be present when the samples are collected. Samples shall be representative of the soil horizon being evaluated for texture. Split samples shall be made available to the LHD when requested. The licensed professional shall document chain of custody and seal, sign, and date the first page of the report.

- (2) Structure – Soil structure shall be determined in the field for each soil horizon in the soil profile and shall be classified and suitability determined in accordance with Table V. If an authorized agent determines that the soil structure cannot be determined from auger borings, pits shall be required.

**Table V.** Soil structure and associated suitability classification

<b>Structure</b>	<b>Diameter</b>	<b>Classification</b>
<u>Granular</u>	<u>N/A</u>	<u>suitable</u>
<u>Blocky</u>	<u>≤ 1 inch or 2.5 cm</u>	<u>suitable</u>
	<u>&gt; 1 inch or 2.5 cm</u>	<u>unsuitable</u>
<u>Platy</u>	<u>N/A</u>	<u>unsuitable</u>
<u>Prismatic</u>	<u>≤ 2 inches or 5 cm</u>	<u>suitable</u>
	<u>&gt; 2 inches or 5 cm</u>	<u>unsuitable</u>
<u>Absence of structure: Single Grain</u>	<u>N/A</u>	<u>suitable</u>
<u>Absence of Structure: Massive - no structural peds</u>	<u>N/A</u>	<u>unsuitable</u>

- (3) Clay Mineralogy – Clay mineralogy shall be determined in the field by evaluation of moist and wet soil consistence in accordance with the USDA-NRCS Field Book for Describing and Sampling Soils. The clay mineralogy shall be classified and suitability determined in accordance with Table VI.

**Table VI.** Clay mineralogy field method results, associated mineralogy, and suitability classification

<b>Soil Consistence</b>	<b>Mineralogy</b>	<b>Classification</b>
<u>Moist</u>		
<u>Loose, very friable</u>	<u>Slightly expansive</u>	<u>suitable</u>
<u>Friable, firm</u>	<u>Slightly expansive</u>	<u>suitable</u>
<u>Very firm or extremely firm</u>	<u>Expansive</u>	<u>unsuitable*</u>

<u>Wet</u>		
<u>Nonsticky, slightly sticky</u> <u>Nonplastic, slightly plastic</u>	<u>Slightly expansive</u>	<u>suitable</u>
<u>Moderately sticky</u> <u>Moderately plastic</u>	<u>Slightly expansive</u>	<u>suitable</u>
<u>Very sticky or very plastic</u>	<u>Expansive</u>	<u>unsuitable*</u>

\*If either the moist consistence or wet consistence is unsuitable then clay mineralogy is classified unsuitable.

- (a) Laboratory testing of ACEC may be substituted for field testing to determine clay mineralogy. The laboratory testing shall be conducted in accordance with USDA-NRCS Soil Survey Laboratory Information Manual, Soil Survey Investigations Report No. 45, and Kellogg Soil Survey Laboratory Methods Manual, Soil Survey Investigation Report No. 42, page 229, or EPA Method 9080. Table VII shall be used to determine the clay mineralogy suitability when laboratory testing is used. When using laboratory testing to determine clay mineralogy, the clay content of the soil shall be greater than 35 percent and the organic matter component shall be less than 0.5 percent.

**Table VII.** Clay mineralogy laboratory method results, mineralogy, and associated suitability classification

<u>ACEC in cmol/kg</u>	<u>Mineralogy</u>	<u>Classification</u>
<u>≤ 16.3</u>	<u>Slightly expansive</u>	<u>suitable</u>
<u>&gt; 16.3</u>	<u>Expansive</u>	<u>unsuitable</u>

- (b) When laboratory testing of clay mineralogy is proposed, the LHD shall be notified a minimum of 48 hours before samples are to be taken by the licensed professional, if required by G.S. 89C, 89E, or 89F. The authorized agent and the licensed professional shall be present when the samples are collected. Samples shall be representative of the soil horizon being evaluated for clay mineralogy. Split samples shall be made available to the LHD when requested. The licensed professional shall document chain of custody and seal, sign, and date the first page of the report.
- (4) Organic Soils - Organic soils shall be considered unsuitable.

Authority G.S. 130A-335(e).

**15A NCAC 18E .0504 SOIL WETNESS CONDITION**

(a) SWC, such as those caused by a seasonal high-water table, a perched water table, tidal water, seasonally saturated soil, or by lateral water movement, shall be determined by field observations of soil wetness indicators as follows:

- (1) the presence of colors with a value 4 or more and a chroma 2 or less using the Munsell Soil Color Book at greater than or equal to two percent of soil volume as redox depletions or as the matrix of a horizon. Colors of chroma 2 or less that are lithochromic features shall not be considered indicative of a SWC; or
- (2) the observation or indication of saturated soils, a perched water table, or lateral water movement flowing into a bore hole, monitoring well, or open excavation above a less permeable horizon, that may occur without the presence of colors with a value 4 or more or chroma 2 or less at greater than or equal to two percent of soil volume as redox depletions or as the matrix of a horizon.
- (3) The shallowest depth to SWC determined in this Paragraph shall be used.

(b) Initial site suitability as to SWC shall be determined by field observations of soil wetness indicators in accordance with Paragraph (a) of this Rule. Sites where the SWC is less than 12 inches below the naturally occurring soil surface, or less than 18

inches if more than six inches of Group I soils are present, shall be considered unsuitable with respect to SWC.

(c) Monitoring or modeling procedures as set forth in this Rule may be used to reclassify the site as suitable with respect to SWC.

(d) Monitoring or modeling procedures as set forth in this Rule shall be required when the owner proposes to use a wastewater system requiring a greater depth to a SWC than the depth observed by soil wetness indicators in accordance with Paragraph (a) of this Rule.

(e) Modeling procedures as set forth in this Rule shall be required when the owner proposes to use sites with Group III or IV soils within 36 inches of the naturally occurring soil surface with artificial drainage, or on sites when fill is proposed to be used in conjunction with an artificial drainage system.

(f) Monitoring or modeling procedures may include the following:

- (1) direct monitoring procedure as set forth in Paragraph (g) of this Rule;
- (2) modeling procedure as set forth in Paragraph (h) of this Rule;
- (3) monitoring and modeling procedure as set forth in Paragraph (i) of this Rule; or
- (4) other modeling procedures as set forth in Paragraph (j) of this Rule.

(g) The direct monitoring procedure involves determining the SWC by observation of water surface elevations in wells during periods of high-water in accordance with the following:

- (1) no later than 30 days prior to the start of the monitoring period, the owner shall notify the LHD of the intent to monitor water surface elevations by submitting a proposal prepared by a licensed professional, if required in G.S. 89C, 89E, or 89F, that includes a site plan, well and soil profile at each monitoring site, and a monitoring plan as follows:
  - (A) the site plan shall include the proposed sites for wastewater systems, the longitude and latitude of the site, the location of monitoring wells, and all drainage features that may influence the SWC. The site plan shall also specify any proposed fill and drainage modifications;
  - (B) the monitoring plan shall include the proposed number, installation depth, screening depth, soil and well profile, materials, and installation procedures for each monitoring well. A minimum of three water level monitoring wells shall be installed for water surface observation at each site. Sites handling systems with a DDF greater than 600 gpd shall have one additional well per 600 gpd increment. Well locations shall include portions of the initial and repair dispersal field areas containing the most limiting soil and site conditions. The monitoring plan shall also provide for monitoring of the water surface elevations in the wells and all precipitation at the site; and
  - (C) notification of whether the owner or a licensed professional will perform the monitoring, including the name of the licensed professional, if applicable.
- (2) prior to installation of the monitoring wells, the authorized agent shall approve the plan. Plan approval shall be based upon a site visit and compliance with this Rule. If the plan is denied, a signed, written report shall be provided to the owner that describes the reasons for denial and the changes necessary for approval of the plan;
- (3) wells shall extend a minimum of five feet below the naturally occurring soil surface, or existing ground surface for existing fill determined in accordance with Rule .0909(d) of this Subchapter, except that wells that extend down only 40 inches from the ground surface may be used if a continuous record of the water table is provided for a minimum of half of the monitoring period. One or more shallower wells may be required on sites where shallow lateral water movement or a perched SWC is anticipated based on the site investigation;
- (4) the water elevation in the monitoring wells shall be recorded daily from January 1 to April 30, taken at the same time during the day, plus or minus three hours. Rain gauges shall be located within two miles of the site. Daily rainfall measurements shall also be recorded from December 1 through April 30; and
- (5) the most recent information available from the SCO shall be used to determine the recurrence frequency of the total amount of rainfall at the site for the 120-day period ending April 15 based upon the site's historic rainfall record. This shall be done when the 120-day cumulative rainfall for the monitoring period ending on April 15 equals or exceeds the site's historic rainfall for the same period with a 30 percent frequency. The recurrence frequency shall be determined with one of the following methods:
  - (A) the owner's licensed professional shall determine the 120-day SPI for April 15 by using the Integrated Water Portal located on the SCO's website at: <http://climate.ncsu.edu/water/map>. The licensed professional shall click on the map pixel that corresponds closest to the site's location. The Department will assist in obtaining this information upon request; or
  - (B) the recurrence frequency of the site's cumulative precipitation for the 120-day monitoring period ending on April 15 shall be determined for the site on a case-by-case basis from the most recent master grid provided to the Department by the SCO. The master grid contains probability distribution parameters that shall be used by the Department based upon guidance from the SCO. Based on the master grid, the Department shall derive the recurrence frequency values for the grid point that corresponds closest to the site's latitude and longitude.
- (6) The SWC shall be determined by the shallowest level that is continuously saturated for the number of consecutive days during the January through April well monitoring period shown in Table VIII as follows:

**TABLE VIII.** Rainfall SPI and exceedance probability during monitoring season related to number of consecutive days of continuous saturation

<b>April 15 SPI 120-day range</b>	<b>Recurrence frequency range 120-day cumulative April 15 rainfall</b>	<b>Number of consecutive days of continuous saturation for SWC</b>
SPI -0.543 to 0	30% to 49.9% duration	3 days or 72 hours



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<u>SPI 0 to 0.545</u>	<u>50% to 69.9% duration</u>	<u>6 days or 144 hours</u>
<u>SPI 0.546 to 0.864</u>	<u>70% to 79.9% duration</u>	<u>9 days or 216 hours</u>
<u>SPI ≥ 0.865</u>	<u>80% to 100% duration</u>	<u>14 days or 336 hours</u>

(7) If monitoring well data is collected during monitoring periods that span multiple years, the year that yields the shallowest SWC shall apply.

(h) The modeling procedure may be used to determine SWC by using DRAINMOD, a groundwater simulation model, to predict daily water levels over a minimum 30-year period using site-specific input parameters as outlined in the DRAINMOD User's Guide. The SWC shall be determined as the shallowest level predicted by DRAINMOD to be saturated for a 14-day continuous period between January 1 and April 30 with a recurrence frequency of 30 percent, an average of a minimum of nine years in 30, and in accordance with the following:

(1) weather input files shall consist of hourly rainfall and daily temperature data collected over the entire period of record but for a minimum of a 30-year period from a measuring station site, such as the National Weather Service or SCO. The measuring station used shall be the station located closest to the owner's site;

(2) soil and site inputs for DRAINMOD shall include the following:

(A) soil input file with the soil moisture characteristic curve and data for the soil profile that is closest to the described soil profile that is present on the site;

(B) soil horizon depths determined on site;

(C) site measured or proposed drain depth and spacing, and drain outlet elevation;

(D) in-situ Ksat measurements for a minimum of three representative locations on the site and at each location for the three most representative soil horizons within five feet of the surface. In-situ Ksat measurements shall be for one representative soil horizon at or above redoximorphic depletion features and two representative soil horizons at and below redoximorphic concentration features at each location on the site;

(E) all other model parameters based upon the DRAINMOD User's Guide; and

(F) a sensitivity analysis shall be conducted for the following model parameters: soil input files for a minimum of two other most closely related soil profiles; in-situ Ksat of each horizon; drain depth and spacing; and surface storage and depth of surface flow inputs.

The sensitivity analysis shall be used to evaluate the range of soil and site characteristics for choosing input parameters related to the soil profiles. Ksat input values based upon the range of in-situ Ksat values measured on the site, and inputs for surface and subsurface drainage features based upon the range of possible elevations and distances that occur or may occur after installation of improvements. The sensitivity analysis shall establish which parameters are most critical for determination of the depth to SWC. Conservative values for the most critical parameters shall be used in applying the model to the site;

(3) for sites designed to receive over 600 gpd, the SWC determination using DRAINMOD shall take into consideration the impact of wastewater application on the projected water table surface; and

(4) the groundwater simulation analysis shall be prepared and submitted to the LHD by licensed professionals, if required in G.S. 89C, 89E, or 89F, qualified to use DRAINMOD by training and experience. The LHD shall submit the groundwater simulation analysis to the Department for technical review prior to approval of the SWC determination.

(i) The monitoring and modeling procedure is a combination of the direct monitoring procedure and the modeling procedure. The SWC shall be determined as the shallowest level predicted by DRAINMOD to be saturated for a 14-day continuous period between January 1 and April 30 with a recurrence frequency of 30 percent, an average of a minimum of nine years in 30, and in accordance with the following:

(1) the procedures set forth in Paragraph (g) shall be used to monitor water surface elevation and precipitation. The rain gauges and monitoring wells required by Subparagraph (g)(4) shall use a recording device and a data file that is DRAINMOD compatible. The recording devices shall record rainfall hourly or daily and well water levels daily. The data file shall be submitted with the report to the LHD;

(2) DRAINMOD shall be used to predict daily water levels. The DRAINMOD modeling shall be in accordance with the following:

(A) weather input files shall be developed from daily temperature and hourly or daily rainfall data collected over a minimum 30-year period from a measuring station, such as the National Weather Service or SCO. The measuring station used shall be the station located closest to the site.

- Daily maximum and minimum temperature data for the December 1 through April 30 monitoring period shall be obtained from the closest available weather station;
- (B) soil and site inputs for DRAINMOD, including a soils data file closest to the soil series identified, depths of soil horizons, in-situ Ksat of each horizon, depth and spacing of drainage features, and depression storage shall be selected in accordance with procedures outlined in the DRAINMOD User's Guide;
- (C) inputs shall be based upon site-specific soil profile descriptions. Soil and site input factors shall be adjusted during the model calibration process to achieve the best possible fit as indicated by the least squares analysis of the daily observations over the whole monitoring period and to achieve the best possible match between the shallowest water table depth during the monitoring period that is saturated for 14 consecutive days, measured vs. predicted. The mean absolute deviation between measured and predicted values shall be no greater than six inches during the monitoring period;
- (D) for sites intended to receive greater than 1,500 gpd, the SWC determination using DRAINMOD shall take into consideration the impact of wastewater application on the projected water table surface; and
- (E) the DRAINMOD analysis shall be prepared and submitted to the LHD by licensed professionals, if required in G.S. 89C, 89E, or 89F, qualified to use DRAINMOD by training and experience. The LHD or owner may request a technical review by the Department prior to approval of the SWC determination.

The monitoring and modeling procedure may also be used to re-evaluate a SWC that was previously evaluated by the direct monitoring procedure.

(j) Modeling procedures other than those set forth in this Rule may be used to determine SWC upon approval by the Department. Other modeling procedures shall be approved if the following requirements are met:

- (1) the modeling procedures use daily water levels or weather records over a 30-year period to predict future daily water levels;
- (2) the proposed model and prediction are shown to be as accurate as the prediction from

- (3) DRAINMOD, calculated in accordance with Paragraph (h) of this Rule; and documentation is provided in accordance with Rule .0509(c) of this Section.

(k) A report of the investigations made for the direct monitoring procedure, modeling procedure, or monitoring and modeling procedure in accordance with Paragraphs (g), (h), or (i) of this Rule shall be prepared prior to approval of the SWC determination. A request for technical review of the report by the Department shall include digital copies of monitoring data, model inputs, output data, and graphic results, as applicable.

*Authority G.S. 130A-335(e).*

#### **15A NCAC 18E .0505 SOIL DEPTH**

- (a) The soil depth shall be measured from the naturally occurring soil surface to rock, saprolite, or parent material.
- (b) Soil depth to saprolite, rock, or parent material greater than or equal to 18 inches shall be suitable.
- (c) Soil depth to saprolite, rock, or parent material less than 18 inches shall be unsuitable.

*Authority G.S. 130A-335(e).*

#### **15A NCAC 18E .0506 SAPROLITE**

- (a) Sites classified unsuitable due to depth to saprolite or other LC may be reclassified suitable in accordance with this Rule.
- (b) Sites with saprolite shall be classified as suitable if an investigation of the site using pits at locations approved by the authorized agent confirms that the following conditions are met:

- (1) a 24-inch minimum vertical separation shall be maintained in saprolite from the infiltrative surface to an unsuitable LC, unless any of the vertical separation consists of a suitable soil horizon, in which case, the 24-inch separation may be calculated based on one inch of suitable soil being equivalent to two inches of saprolite; and
- (2) the following physical properties and characteristics shall be present in the saprolite below the proposed infiltrative surface:
  - (A) the saprolite texture as determined in the field by hand texturing samples of each horizon shall be sand, loamy sand, sandy loam, loam, or silt loam;
  - (B) the clay mineralogy shall be suitable in accordance with Rule .0503(3) of this Section;
  - (C) greater than two-thirds of the saprolite by volume shall have a moist consistence of loose, very friable, friable, or firm;
  - (D) the saprolite wet consistence shall be nonsticky or slightly sticky and nonplastic or slightly plastic;
  - (E) the saprolite shall be in an undisturbed, naturally occurring state;

- (F) the saprolite shall have no open and continuous joints, quartz veins, or fractures relic of parent rock; and
- (G) laboratory determinations may be used to supplement field determinations. Split samples shall be made available to the LHD.

*Authority G.S. 130A-335(e); S.L. 2015-147, s.3.*

**15A NCAC 18E .0507 RESTRICTIVE HORIZONS**

- (a) Soils in which restrictive horizons are three inches or more in thickness and at depths greater than or equal to 18 inches below the naturally occurring soil surface shall be suitable.
- (b) Soils in which restrictive horizons are three inches or more in thickness and at depths less than 18 inches below the naturally occurring soil surface shall be unsuitable.

*Authority G.S. 130A-335(e).*

**15A NCAC 18E .0508 AVAILABLE SPACE**

- (a) Sites shall have available space to allow for the installation of the initial wastewater system and repair area for a system identified or approved in Sections .0900, .1500, or .1700 of this Subchapter. The available space provided shall meet all required setbacks in Sections .0600 or .1200 of the Subchapter and provide access to the wastewater system for operation and maintenance activities. A site with sufficient available space shall be suitable.
- (b) If the site does not have available space for both an initial wastewater system and repair area it shall be unsuitable.
- (c) The repair area requirement of Paragraph (a) of this Rule shall not apply to a lot or tract of land which meets the following:
  - (1) described in a recorded deed or a recorded plat on January 1, 1983;
  - (2) insufficient size to satisfy the repair area requirement of Paragraph (a) of this Rule, as determined by the authorized agent;
  - (3) DDF is no more than 480 gallons for a single-family dwelling unit or a single facility; and
  - (4) the proposed facility will generate DSE.
- (d) Although a lot or tract of land may be exempt from the repair area requirement under Paragraph (c) of this Rule, the authorized agent shall determine if there is any available space for the repair area. The authorized agent shall determine the maximum feasible repair area available, and that repair area shall be specified on the IP, CA, and OP.
- (e) If a site meets any of the following criteria, a repair area shall be required, even if the site is exempt from the repair area requirement of Paragraph (c) of this Rule:
  - (1) proposed increase in flow or wastewater strength to an existing facility permitted under the exemption of Paragraph (c) of this Rule; or
  - (2) any new initial wastewater system is proposed on a lot or tract of land on which the exemption in Paragraph (c) of this Rule was previously utilized.

(f) Notwithstanding the criteria for when a repair area is required in accordance with Paragraph (e) of this Rule, a site shall remain

exempt from the repair area requirements of Paragraph (a) of this Rule when all of the following conditions are met:

- (1) an owner submits an application to the LHD for an increase in flow to an existing facility permitted in accordance with Paragraph (c) of this Rule and the facility DDF remains less than or equal to 480 gpd of DSE;
- (2) there is sufficient available space for the existing system to be modified pursuant to the Rules of this Subchapter;
- (3) the site for the existing system complies with the Rules of this Subchapter and the existing system is not malfunctioning in accordance with Rule .1303(a)(1) and (2) of this Subchapter; and
- (4) the conditions set forth in Paragraph (d) of this Rule are met.

(g) Prior to the issuance of the IP, the proposed dispersal field shall be field located and staked on-contour, as applicable, to verify that initial and repair wastewater systems can be installed in the area delineated. The dispersal field may be installed level but off contour if an authorized agent has determined that there is sufficient vertical separation to a LC along the entire trench length in accordance with Rule .0901(g)(2) of this Subchapter.

(h) The initial and repair area shall not be altered so that the wastewater system specified on the IP, CA, and OP cannot be installed and function as permitted.

*Authority G.S. 130A-335(e) and (f); S.L. 2015-147, s.1.*

**15A NCAC 18E .0509 SITE SUITABILITY AND CLASSIFICATION**

- (a) A site evaluated in accordance with Rules .0502 through .0508 of this Section with all parameters determined as suitable shall result in an overall site classification of suitable. Any parameter determined as unsuitable shall result in an overall site classification of unsuitable.
- (b) Sites classified as unsuitable may be reclassified as suitable as follows:
  - (1) when site modifications are made that meet the requirements in Sections .0900 or .1200 of this Subchapter for the minimum vertical separation to the SWC;
  - (2) if installation of an interceptor drain will intercept and divert lateral water to prevent saturation of the wastewater system;
  - (3) with the use of advanced pretreatment based on the modified siting and sizing criteria in Section .1200 of this Subchapter; or
  - (4) with the use of a wastewater system identified or approved in Sections .0900 or .1700 of this Subchapter

(c) For sites that are classified as unsuitable in accordance with this Rule, a special site evaluation in accordance with Rule .0510 of this Section may be provided that demonstrates that the proposed wastewater system can be expected to overcome the unsuitable site conditions and function in accordance with this Subchapter.

(d) An IP shall not be issued for a site which is classified unsuitable.

*Authority G.S. 130A-335(e).*

**15A NCAC 18E .0510 SPECIAL SITE EVALUATIONS**

(a) A special site evaluation shall demonstrate that the proposed use of the site with a specific wastewater system design and configuration will not result in effluent discharge to the ground surface or contravention of groundwater or surface water standards. Special site evaluations shall be performed by a licensed professional, if required in G.S. 89C, 89E, or 89F.

(b) The owner may submit a special site evaluation for a site classified as unsuitable as set forth in Rule .0509 of this Section to an authorized agent. The special site evaluation shall include written documentation and demonstrate that the proposed wastewater system can be expected to overcome the unsuitable site conditions and function in accordance with this Subchapter.

(c) Any site that is proposed with one or more of the following shall require a special site evaluation:

- (1) proposal submitted in accordance with Rule .0509(c) of this Section;
- (2) sand lined trench systems when the texture of the receiving permeable horizon is sandy loam or loam and the DDF is greater than 600 gpd, or when the texture of the receiving permeable horizon is silt loam;
- (3) DSE drip dispersal systems meeting the following soil and site conditions:
  - (A) depth from the naturally occurring soil surface to any LC is greater than or equal to 18 inches and the LTAR is proposed to exceed 0.5 gpd/ft<sup>2</sup> for Group I, 0.35 gpd/ft<sup>2</sup> for Group II, or 0.2 gpd/ft<sup>2</sup> for Group III soils;
  - (B) depth from the naturally occurring soil surface to any SWC is less than 18 inches and the LTAR is proposed to exceed 0.5 gpd/ft<sup>2</sup> for Group I, 0.3 gpd/ft<sup>2</sup> for Group II, or 0.15 gpd/ft<sup>2</sup> for Group III soils;
  - (C) Group IV soils are encountered within 18 inches of the naturally occurring soil surface or within 12 inches of the infiltrative surface, whichever is deeper, and the LTAR is proposed to exceed 0.05 gpd/ft<sup>2</sup>;
  - (D) Group IV soils are encountered within 18 inches of the naturally occurring soil surface and the depth from the naturally occurring soil surface to any LC is less than 24 inches;
  - (E) Group IV soils are encountered within 18 inches of the naturally occurring soil surface and the driplines are installed in new fill material;
  - (F) groundwater lowering system is used to comply with soil depth and vertical separation requirements to a SWC;

(G) proposed LTAR exceeds that assigned by the LHD; or

(H) DDF is greater than 1,500 gpd; advanced pretreatment systems meeting the following soil and site conditions:

- (A) vertical separation to a LC is proposed to be reduced. The vertical separation to rock or tidal water shall not be reduced to less than 12 inches;
- (B) less than 18 inches of naturally occurring soil to a LC, excluding SWC;
- (C) increased LTAR is proposed for a site with Group III or IV soils within three feet of the infiltrative surface;
- (D) increased LTAR is proposed for a site with Group II or III soils that requires a groundwater lowering system;
- (E) proposed use of a groundwater lowering system to comply with vertical separation requirements to a SWC;
- (F) bed systems located beneath the advanced pretreatment unit on a site with uniform slope exceeding two percent except in Group I soils with a SWC greater than 36 inches;
- (G) bed systems with a DDF greater than 1,500 gpd; or
- (H) increased LTAR is proposed on a site with a DDF greater than 1,500 gpd;

(5) drip dispersal systems and Group IV soils are within 18 inches of the naturally occurring soil surface or within 12 inches of the infiltrative surface, whichever is deeper, and the LTAR is proposed to exceed 0.1 gpd/ft<sup>2</sup> for NSF-40, 0.12 gpd/ft<sup>2</sup> for TS-I, or 0.15 gpd/ft<sup>2</sup> for TS-II;

(6) NSF-40 and drip dispersal systems when the LTAR is proposed to exceed 0.8 gpd/ft<sup>2</sup> for Group I soils, 0.5 gpd/ft<sup>2</sup> for Group II soils, 0.25 gpd/ft<sup>2</sup> for Group III soils, or 0.1 gpd/ft<sup>2</sup> for Group IV soils;

(7) TS-I and drip dispersal systems which meet the following criteria:

- (A) site has less than 18 inches of naturally occurring soil to any unsuitable LC;
- (B) Group III soils are present and a groundwater lowering system is used to comply with the vertical separation requirements to a SWC;
- (C) Group IV soils are encountered within 18 inches of the naturally occurring soil surface, the LTAR is proposed to exceed 0.05 gpd/ft<sup>2</sup>, and the system is proposed to be installed in new fill; or
- (D) LTAR is proposed to exceed 1.0 gpd/ft<sup>2</sup> for Group I soils, 0.6 gpd/ft<sup>2</sup> for Group II soils, 0.3 gpd/ft<sup>2</sup> for Group

III soils, or 0.12 gpd/ft<sup>2</sup> for Group IV soils;

- (8) TS-II and drip dispersal systems which meet the following criteria:  
 (A) Subparagraphs (7)(A), (B), or (C) of this Rule; or  
 (B) LTAR is proposed to exceed 1.2 gpd/ft<sup>2</sup> for Group I soils, 0.7 gpd/ft<sup>2</sup> for Group II soils, 0.4 gpd/ft<sup>2</sup> for Group III soils, or 0.15 gpd/ft<sup>2</sup> for Group IV soils;  
 (9) site-specific nitrogen migration analysis is required to verify that the nitrate-nitrogen concentration at the property line will not exceed groundwater standards;  
 (10) LHD or Department determines that the combination of soil conditions, site topography and landscape position, DDF, system layout, and proposed stormwater appurtenances will potentially result in hydraulic overload; or  
 (11) DDF greater than 3,000 gpd, unless the requirements of Rule .0302(f) of this Subchapter are met.

(d) The special site evaluation shall include hydrologic or hydraulic testing, as applicable, and analysis, in accordance with Rule .0304(2)(B) of this Subchapter.

(e) For wastewater systems with a DDF greater than 3,000 gpd, the special site evaluation shall include sufficient site-specific data to predict the height of the water table mound that will develop beneath the field on level sites and the rate of lateral and vertical flow away from the trenches on sloping sites, unless the conditions in Paragraph (f) of this Rule are met. The data submitted may include deep soil borings to an impermeable layer or to a depth to support the hydrologic testing and modeling, permeability, in-situ Ksat measurements, water level readings, and other information determined to be necessary by the LHD or the Department, such as the impact of projected wastewater constituents on the trench and receiving soil. The site shall be considered unsuitable if the data indicate any of the following:

- (1) the groundwater mound that will develop beneath the site cannot be maintained two feet or more below the bottom of the trenches;  
 (2) effluent is likely to become exposed on the ground surface; or  
 (3) contaminant transport analysis indicates that groundwater standards established in accordance with 15A NCAC 02L are determined or projected to be violated at the property line.

(f) For wastewater systems with a DDF greater than 3,000 gpd and dispersal fields designed for less than or equal to 1,500 gpd, in-situ Ksat measurements and groundwater mounding or lateral flow analysis shall not be required if a special site evaluation demonstrates that the dispersal fields are in separate lateral flow windows or are shown to not be hydraulically connected.

(g) The Department shall review the special site evaluation if requested by the LHD or if required in accordance with Rule .0302(h) of this Subchapter.

Authority G.S. 89E; 89F; 130A-335(a1), (e), and (f).

## **SECTION .0600 – LOCATION OF WASTEWATER SYSTEMS**

### **15A NCAC 18E .0601 LOCATION OF WASTEWATER SYSTEMS**

(a) Every wastewater system shall be located the minimum setbacks from the site features specified in Table IX. The setback shall be measured on the ground surface, unless otherwise specified in this Rule, from the nearest wastewater system component sidewall or as otherwise specified in a system specific rule or PIA Approval.

**TABLE IX.** Minimum setbacks from all wastewater systems to site features

<b>Site Features</b>	<b>Setback in feet</b>
<u>Any transient or non-transient non-community water supply well, community well, shared water supply well, well that complies with 15A NCAC 18A .1700, or water supply spring</u>	<u>100</u>
<u>A private drinking water well or upslope spring serving a single family dwelling unit</u>	<u>50</u>
<u>Any other well or source not listed in this table, excluding monitoring wells</u>	<u>50</u>
<u>Surface waters classified WS-I, from ordinary high-water mark</u>	<u>100</u>
<u>Waters classified SA, from mean high-water mark</u>	<u>100</u>
<u>Any Class I or Class II reservoir, from normal water level</u>	<u>100</u>
<u>Lake or pond, from normal water level</u>	<u>50</u>
<u>Any other stream, non-water supply spring, or other surface waters, from the ordinary high-water mark</u>	<u>50</u>
<u>Tidal influenced waters, such as marshes and coastal waters, from mean high-water mark</u>	<u>50</u>
<u>Permanent stormwater retention basin, from normal water level</u>	<u>50</u>
<u>Any water line, unless the requirements of Paragraph (i) have been met</u>	<u>10</u>
<u>Closed loop geothermal wells</u>	<u>15</u>
<u>Building foundation and deck supports</u>	<u>5</u>
<u>Patio, porch, stoop, lighting fixtures, or signage, including supporting structures such as posts or pilings</u>	<u>1</u>
<u>Any basement, cellar, or in-ground swimming pool</u>	<u>15</u>
<u>Buried storage tank or basin, except stormwater</u>	<u>10</u>

<u>Above ground swimming pool and appurtenances that require a building permit</u>	<u>5</u>
<u>Top of slope of embankment or cuts of two feet or more vertical height with a slope greater than 50 percent</u>	<u>15</u>
<u>Top of slope of embankment or cuts of two feet or more vertical height with a slope greater than 33 percent and less than or equal to 50 percent</u>	<u>15</u>
	<u>0, if the site has suitable soil depth that extends for a minimum horizontal distance of 15 feet from the edge of the dispersal field</u>
<u>Top of slope of embankment or cuts of two feet or more vertical height with a slope less than 33 percent</u>	<u>0</u>
<u>Groundwater lowering system, as measured on the ground surface from the edge of the feature</u>	<u>25</u>
<u>Downslope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature</u>	<u>15</u>
<u>Upslope and sideslope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature</u>	<u>10</u>
<u>A stormwater collection system as defined in 15A NCAC 02H .1002(48), excluding gutter drains that connect to a stormwater collection system, with a vertical cut of more than two feet as measured from the center of the collection system</u>	<u>10</u>
<u>Bio-retention area, injection well, infiltration system, or dry pond</u>	<u>25</u>
<u>Any other dispersal field, except designated dispersal field repair area for project site</u>	<u>20</u>
<u>Any property line</u>	<u>10</u>
<u>Burial plot or graveyard boundary</u>	<u>10</u>
<u>Above ground storage tank from dripline or foundation pad, whichever is more limiting</u>	<u>5</u>
<u>Utility transmission and distribution line poles and towers, including guy wires, unless a greater setback is required by the utility company</u>	<u>5</u>
<u>Utility transformer, ground-surface mounted</u>	<u>5</u>
<u>Underground utilities</u>	<u>5</u>

spring for repairs, space limitations, and other site-planning considerations when one of the following conditions is met:

- (1) the well was constructed prior to July 1, 1993, in accordance with 15A NCAC 18A .1720; or
- (2) a variance for a reduced well setback has been issued in accordance with one of the following:
  - (A) 15A NCAC 02C .0118 for a shared water supply well, a wastewater system permitted or installed in saprolite, or for a transient non-community public water supply well; or
  - (B) 15A NCAC 18C .0203(b) for a non-transient non-community public water system.

(c) Wastewater systems shall not be located closer than 100 feet to springs, uncased wells, and ungrouted wells used as a source of drinking water and located downslope from the dispersal field.

(d) Underground utilities maintain a five-foot setback and shall not encroach on the wastewater system and repair area.

(e) The reduced setbacks in Table X shall apply to septic tanks and pump tanks if a leak test has been performed at the job site on the septic tank and pump tank in accordance with Rule .0805 of this Subchapter that verifies the tank, pipe penetrations, and riser connections are watertight.

**TABLE X. Reduced setbacks for tanks to some site features**

<b><u>Site Features</u></b>	<b><u>Setback in feet</u></b>
<u>Permanent stormwater retention basin, from normal water level</u>	<u>35</u>
<u>Bio-retention area, injection well, infiltration system, or dry pond</u>	<u>15</u>
<u>Groundwater lowering system, as measured on the ground surface from the edge of the feature</u>	<u>15</u>
<u>Any water line</u>	<u>5</u>
<u>A stormwater collection system as defined in 15A NCAC 02H .1002(48), excluding gutter drains that connect to a stormwater collection system, with a vertical cut of more than two feet as measured from the center of the collection system</u>	<u>5</u>

(f) No minimum setback shall be required from a well that has been permanently abandoned in accordance with 15A NCAC 02C .0113 and for which a record of abandonment has been submitted in accordance with 15A NCAC 02C .0114.

(g) Initial and repair dispersal field systems shall not be located under impervious surfaces or areas subject to vehicular traffic unless approved in accordance with G.S. 130A-343 and Section .1700 of this Subchapter.

(h) If a collection sewer is installed under areas subject to vehicular traffic or areas subject to soil disturbance or compaction, one of the following pipe materials shall be used:

- (1) DIP;
- (2) a minimum of Schedule 40 PVC, Polyethylene, or ABS pipe sleeved in DIP;

(b) Wastewater systems may be located closer than 100 feet but never less than 50 feet from water supply wells or an upslope

- (3) a minimum of Schedule 40 PVC, Polyethylene, or ABS pipe sleeved in DOT traffic rated culvert pipe;
- (4) a minimum of Schedule 40 PVC, Polyethylene, or ABS pipe with 30 inches of compacted material provided over the crown of the pipe; or
- (5) other pipe materials may be proposed when designed, inspected, and certified by a PE and approved by the LHD.

(i) In addition to the requirements of Paragraph (a) of this Rule, wastewater systems with a proposed DDF greater than 3,000 gpd, as determined in Rule .0401 of this Subchapter, shall be located the minimum setbacks from the site features in Table XI.

**TABLE XI.** Minimum setbacks from wastewater systems greater than 3,000 gpd to site features

<b>Feature</b>	<b>Setback in feet</b>
<u>Any Class I or II reservoir or any public water supply source utilizing a shallow, under 50 feet, groundwater aquifer, from feature or normal water level</u>	<u>500</u>
<u>Any other public water supply source, unless a confined aquifer</u>	<u>200</u>
<u>Any private drinking water well or upslope spring, unless a confined aquifer</u>	<u>100</u>
<u>Surface water classified WS- I, from ordinary high-water mark</u>	<u>200</u>
<u>Surface waters classified WS-II, WS-III, B, or SB, from mean high-water mark or ordinary high-water mark</u>	<u>100</u>
<u>Waters classified SA, from mean high-water mark</u>	<u>200</u>
<u>Any property line</u>	<u>25</u>

(j) Wastewater systems with a DDF greater than 3,000 gpd that meet the requirements of Rule .0510(f) of this Subchapter may use the setbacks identified in Table IX of this Rule.

(k) Collection sewers shall be located the minimum setbacks to site features shown in Table IX, unless a different minimum setback is specified in Table XII. When a reduced setback to a collection sewer is utilized, the piping requirements for the reduced setback shall be extended to comply with the unreduced setback.

**TABLE XII.** Minimum setbacks from collection sewers to site features

<b>Feature</b>	<b>Setback in feet</b>
<u>Any public water supply source, including wells, springs, and Class I or Class II reservoirs, from feature or normal water level</u>	<u>100</u>
	<u>50, if constructed of or sleeved in Schedule 80 PVC or DIP with mechanical joints equivalent to water main standards, and the collection sewer is leak tested and shown to be watertight*</u>
	<u>50</u>

<u>Any water supply well excluding those regulated under 15A NCAC 18C</u>	<u>25, if constructed of Schedule 40 pressure rated PVC or DIP with mechanical joints equivalent to water main standards, and the collection sewer is leak tested and shown to be watertight*</u>
	<u>15, if constructed of Schedule 80 PVC, sleeved in DIP or Schedule 80 PVC, and the collection sewer is leak tested and shown to be watertight*</u>
<u>Surface waters classified WS-I, WS-II, WS-III, B, SA, or SB, from mean high-water mark or ordinary high-water mark</u>	<u>50</u>
	<u>10, if constructed of or sleeved in Schedule 80 PVC or DIP with mechanical joints equivalent to water main standards, and the collection sewer is leak tested and shown to be watertight*</u>
<u>Any other stream, non-water supply spring, or other surface waters, from the ordinary high-water mark</u>	<u>10</u>
<u>Tidal influenced waters, such as marshes and coastal waters, from mean high-water mark</u>	<u>10</u>
<u>Closed loop geothermal wells</u>	<u>5</u>
<u>Any service connection as defined in 15A NCAC 18C .0102(c)(21)</u>	<u>5</u>
<u>Any basement, cellar, or in-ground swimming pool</u>	<u>10</u>
<u>Top of slope of embankment or cuts of two feet or more vertical height with a slope greater than 50 percent</u>	<u>5</u>
<u>Interceptor drains and surface water diversions, with a vertical cut of more than two feet as measured on the ground surface from the edge of the diversion</u>	<u>5</u>
<u>Permanent stormwater retention basin, from normal water level</u>	<u>10</u>
<u>Bio-retention area, injection well, infiltration system, or dry pond</u>	<u>5</u>
<u>Any other dispersal field, except designated dispersal field repair area for project site</u>	<u>5</u>
<u>Any property line</u>	<u>5</u>
<u>Burial plot or graveyard boundary</u>	<u>5</u>

\*Pipe materials other than DIP, Schedule 40 pressure rated PVC, or Schedule 80 PVC shall be acceptable when the materials conform to materials, testing methods, and acceptability standards meeting water main standards and when the line has been designed, installed, inspected, and certified by a PE and approved by the LHD.

(l) The minimum setback from water lines to collection sewers shall be 10 feet, except as follows:

- (1) the water line is laid in a separate trench with the elevation of the bottom of the water line 18 inches above the top of the collection sewer; or
- (2) the water line is laid in the same trench as the collection sewer with the water line located on one side of the trench, on a bench of undisturbed earth and with the elevation of the bottom of the water line 18 inches above the top of the collection sewer. The collection sewer shall be located the width of the trench from the water line.

(m) Collection sewers and water lines shall not cross, except as follows:

- (1) 18 inches clear vertical separation is maintained, with the collection sewer crossing under the water line; or
- (2) the water line crosses under the collection sewer or 18 inches clear vertical separation is not maintained and the following criteria are met:
  - (A) the collection sewer is constructed of DIP with joints equivalent to water main standards and extends 10 feet on each side of the point of crossing, with full sections of pipe centered at the point of crossing; and
  - (B) the water line is constructed of ferrous materials with joints equivalent to water main standards and extends a minimum of 10 feet on each side of the point of crossing, with full sections of pipe centered at the point of crossing.

(n) Collection sewers shall not cross storm drains, except as follows:

- (1) 12 inches clear vertical separation is maintained between the collection sewer and storm drain;
- (2) the collection sewer is constructed of DIP with mechanical joints or restrained push-on joints equal to water main standards; or
- (3) the collection sewer is encased in concrete or DIP for a minimum of five feet on either side of the crossing.

(o) Collection sewers shall not cross under a stream, except as follows:

- (1) a minimum of 36 inches of separation from the stream bottom is maintained;
- (2) the collection sewer is constructed of DIP with mechanical joints or restrained push-on joints equal to water main standards; or
- (3) the collection sewer is encased in concrete or DIP for a minimum of 10 feet on either side of

the crossing and protected against the normal range of high and low water conditions, including the 100-year flood or wave action.

(p) Collection sewer aerial crossings shall be constructed of DIP with mechanical joints or restrained push-on joints equal to water main standards and freeze protected. Pipe shall be anchored for a minimum of 10 feet on either side of the crossing.

(q) If septic tanks, pump tanks, grease tanks, raw sewage lift stations, wastewater treatment plants, sand filters, and other advanced pretreatment systems are located in areas subject to flooding at a frequency greater than a 10-year storm, they shall be designed and installed to be watertight and to remain operable during all flooding events.

Authority G.S. 130A-334; 130A-335(e) and (f); S.L. 2019-215, s.2.

#### **15A NCAC 18E .0602 APPLICABILITY OF SETBACKS**

(a) The minimum setback requirements in Table IX of Rule .0601(a) of this Section for SA waters, basements, property lines, and cuts of two feet or more vertical height, shall not apply to the installation of a single wastewater system serving a single-family residence with a maximum DDF of 480 gpd on a lot or tract of land that meets the following requirements:

- (1) on July 1, 1977, is described in a deed, contract, other instrument conveying fee title, or in a recorded plat;
- (2) is of insufficient size to satisfy the minimum setback requirements in Table IX of Rule .0601(a) of this Section for SA waters, basements, property lines, and cuts of two feet or more vertical height of this Section on July 1, 1977; and
- (3) cannot be served by a community or public sewerage system on the date system construction is proposed to begin.

(b) For those lots or tracts of land described in Paragraph (a) of this Rule, the maximum feasible setback shall be required, but shall not be less than the minimum setbacks in Table XIII.

**TABLE XIII.** Minimum setbacks from wastewater systems to specific site features on lots described in this Rule

<b>Feature</b>	<b>Minimum setback in feet</b>
SA waters from mean high-water mark	50
Basement	8
Property line	5
Cuts of two feet or more vertical height	5

(c) For wastewater systems installed in Group I soils on lots or tracts of land that meet the requirements of Paragraph (a) of this Rule, the wastewater system shall be located the maximum feasible distance but no less than 10 feet from any other wastewater system.

(d) For wastewater systems installed on lots or tracts of land which, on July 1, 1982, are specifically described in a deed or recorded plat, and the wastewater system cannot meet the minimum setbacks in Table IX of Rule .0601(a) of this Section



for groundwater lowering systems, the wastewater system shall be located the maximum feasible horizontal distance but no less than 10 feet from the groundwater lowering system.

(e) Any local board of health ordinances in effect on June 30, 1977, which establish greater minimum setback requirements than those provided for in this Section, shall remain in effect and shall apply to a lot or tract of land to which Table IX of Rule .0601(a) of this Section does not apply.

*Authority G.S. 130A-335(e).*

## **SECTION .0700 – COLLECTION SEWERS, RAW SEWAGE LIFT STATIONS, SEPTIC TANK EFFLUENT PUMP SYSTEMS, AND PIPE MATERIALS**

### **15A NCAC 18E .0701 COLLECTION SEWERS**

(a) Collection sewers shall be designed and constructed in accordance with the following criteria:

- (1) Building drains and building sewers shall be in accordance with the North Carolina Plumbing Code and approved by the local building inspector.
- (2) Pipe material shall be specified to comply with the applicable ASTM standards based on pipe material.
- (3) Gravity sewers shall be designed to maintain minimum scour velocities of two feet per second with the pipe half full and one foot per second at the peak projected instantaneous flow rate. Force mains shall be sized to obtain a minimum two-foot per second scour velocity at the projected pump operating flow rate.
- (4) Infiltration and exfiltration shall not exceed 100 gpd per inch diameter per mile of gravity sewer pipe or 20 gpd per inch diameter per mile of pressure pipe in force mains and supply lines.
- (5) Collection sewers shall be buried three feet deep, except as provided for in Rule .0601(h)(4) of this Subchapter.
- (6) Ferrous material pipe or other pipe designed and bedded for traffic-bearing loads shall be provided where collection sewers are subject to vehicular traffic.
- (7) Manholes shall be used for gravity collection sewers at any bend, junction, and a maximum of every 425 feet along the collection sewer. Drop manholes shall be required where the inlet to outlet elevation difference exceeds two and one half feet. Manhole lids shall be watertight if located below the 100-year flood elevation, within 100 feet of any public water system source, or within 50 feet of any private water system source or any surface waters classified WS-I, WS-II, WS-III, SA, SB, or B.
- (8) Cleanouts may be used instead of manholes for four-inch and six-inch sewers serving one or two design units, or as otherwise allowed by the North Carolina Plumbing Code. Cleanouts shall be required a maximum of every 100 feet for

four or six-inch sewers and at all junctions and bends which exceed 45 degrees, unless otherwise allowed by the North Carolina Plumbing Code.

(9) Air relief valves shall be provided as needed for force mains when the length exceeds 1,000 feet or for intermediate high points that exceed five feet.

(10) Collection sewers may require additional ventilation provisions, such as a stand pipe, based on length, size, and location.

(b) STEP systems may be used as an alternative to gravity collection sewers.

*Authority G.S. 130A-335(e), (f), and (f1).*

### **15A NCAC 18E .0702 RAW SEWAGE LIFT STATIONS**

(a) Raw sewage lift stations permitted by the LHD shall meet all setbacks for wastewater systems in accordance with Table IX of Rule .0601(a) of this Subchapter.

(b) Raw sewage lift stations shall meet the following design and construction standards:

- (1) dual pumps shall be provided for stations serving two or more buildings or for a facility with more than six water closets;
- (2) pumps shall be listed by a third-party electrical testing and listing agency, such as Underwriter's Laboratories;
- (3) pumps shall be grinder pumps or solids-handling pumps capable of handling a minimum of three-inch spheres. If the raw sewage lift station serves no more than a single water closet, lavatory, and shower, two-inch solids handling pumps shall be acceptable;
- (4) minimum pump capacity shall be two and one half times the average daily flow;
- (5) raw sewage lift stations serving single buildings shall be designed for pump run times between three to 10 minutes at average daily flow;
- (6) pump station emergency storage capacity and total liquid capacity shall be determined in accordance with Rule .0802 of this Subchapter except for a sealed, watertight chamber serving an individual building, in which case a minimum storage capacity of eight hours shall be required; and
- (7) all applicable requirements for pump tanks and dosing systems as set forth in Rule .0802 and Section .1100 of this Subchapter shall apply to raw sewage lift stations.

(c) A raw sewage lift station that is a sealed, watertight chamber shall meet the setback requirements for collection sewers in Rule .0601(h) of this Subchapter. Sealed, watertight chambers shall be a single prefabricated unit with a sealed top lid, and preformed inlet and outlet pipe openings connected with solvent welds, O-ring seals, rubber boots, stainless steel straps, or equivalent.

*Authority G.S. 130A-335(e), (f), and (f1).*

**15A NCAC 18E .0703 PIPE MATERIALS**

(a) The gravity pipe between a septic tank, gravity distribution device, and the dispersal field shall be a minimum of three-inch Schedule 40 PVC, Schedule 40 polyethylene, or Schedule 40 ABS.

(b) Three-inch or greater non-perforated polyethylene corrugated tubing, PVC SDR 21 and SDR 26 pressure rated at 160 psi or greater and labeled as compliant with ASTM D2241, PVC SDR 35 gravity sewer pipe rated as compliant with ASTM D3034, or alternative non-perforated pipe materials described in Paragraph (d) of this Rule, may be substituted for Schedule 40 between the distribution device and the dispersal field when the following minimum installation criteria are met:

- (1) the pipe is placed on a compacted, smooth surface free of indentations or clods at a uniform grade, and with an excavation width of one foot;
- (2) the pipe is placed in the middle of the excavation with three inches of clearance between the pipe and the walls;
- (3) a washed gravel or crushed stone envelope is placed in the excavation on both sides of the pipe and to a point two inches above the top of the pipe;
- (4) six inches of soil is placed and compacted over the stone or gravel envelope; and
- (5) earthen dams consisting of two feet of undisturbed or compacted soil are located at both ends of the excavation separating the trench from the distribution device.

(c) All pipe joints from the septic tank to the dispersal field shall be watertight. Solvent cement-joints shall be made in a two-step process with primer manufactured for thermoplastic piping systems and solvent cement conforming to ASTM D2564.

(d) Pipe used for gravity distribution laterals shall be corrugated plastic tubing complying with ASTM F667 or smooth-wall plastic pipe complying with ASTM D2729 or ASTM F810. The pipe shall be marked as complying with ASTM standards. The corrugated tubing or smooth-wall pipe shall have three rows of holes, each hole between one-half inch and three-fourths inches in diameter and spaced longitudinally approximately four inches on centers. The rows of holes may be equally spaced 120 degrees on centers around the pipe periphery, or three rows may be located in the lower portion of the tubing, the outside rows being approximately on 120-degree centers. The holes may be located in the same corrugation or staggered in adjacent corrugations. Other types of pipe may be used for laterals provided the pipe satisfies the requirements of this Rule and is approved by the Department.

(e) Pump discharge piping, including the force main to the next component in the wastewater system, shall be of Schedule 40 PVC or stronger material and pressure rated for water service at a minimum of 160 psi or two times the maximum operating pressure, whichever is greater. The pipe shall meet ASTM D1784, ASTM D1785, and ASTM D2466.

(f) Pipe materials other than those identified in this Rule may be proposed when designed and certified by a PE, including any installation and testing procedures. Gravity pipe materials shall be shown to comply with the requirements of Paragraphs (a), (b), and

(c) of this Rule. Alternative pressure rated pipe materials shall be constructed of PVC, polyethylene, or other pressure rated pipe and conform to applicable ASTM standards for pipe material and methods of joining. The proposed pipe shall be installed per ASTM D2774. Installation testing shall include a hydrostatic pressure test similar to pressure testing required for water mains for any line exceeding 500 feet in length and shall comply with the requirements of Rule .0701(a)(4) of this Section.

*Authority G.S. 130A-335(e), (f), and (f1).*

**SECTION .0800 – TANK CAPACITY, LEAK TESTING, AND INSTALLATION REQUIREMENTS**

**15A NCAC 18E .0801 SEPTIC TANK CAPACITY REQUIREMENTS**

(a) Minimum liquid capacities for septic tanks shall be in accordance with the following:

- (1) The minimum capacity of any septic tank shall be 1,000 gallons unless otherwise provided for in this Rule.
- (2) The minimum capacity of any septic tank serving an individual dwelling unit with five bedrooms or less shall be sized as set forth in Table XIV.

**TABLE XIV.** Minimum septic tank liquid capacity for dwelling units

<u>Number of bedrooms</u>	<u>Minimum liquid capacity in gallons</u>
<u>4 or less</u>	<u>1,000</u>
<u>5</u>	<u>1,250</u>

- (3) Septic tanks for dwelling units greater than five bedrooms, multiple dwelling units, places of business, or places of public assembly shall be sized in accordance with Table XV.
- (4) The minimum septic tank capacity serving two or more dwelling units shall be 1,500 gallons.

**TABLE XV.** Septic tank capacity for facilities not listed in Table XIV

<u>Design daily flow in gpd (Q)</u>	<u>Minimum septic tank liquid capacity (V) calculation in gallons</u>
<u><math>Q \leq 600</math></u>	<u><math>V = 2Q</math></u>
<u><math>600 &lt; Q &lt; 1,500</math></u>	<u><math>V = 1.17Q + 500</math></u>
<u><math>1,500 \leq Q \leq 4,500</math></u>	<u><math>V = 0.75Q + 1,125</math></u>
<u><math>Q &gt; 4,500</math></u>	<u><math>V = Q</math></u>

- (5) Septic tanks for RWTS and PIA Systems shall be sized in accordance with the RWTS or PIA Approval, pursuant to Sections .1500 and .1700 of this Subchapter.

(b) The minimum liquid capacity requirements of Paragraph (a) of this Rule shall be met by use of a single two compartment tank or by two tanks installed in series. The tanks in series may be

constructed with or without a baffle wall. Each tank shall have a minimum liquid capacity of 1,000 gallons.

(c) When a grinder pump or sewage lift pump is installed prior to the septic tank, the required septic tank liquid capacity as set forth in this Rule shall be doubled. The minimum liquid capacity may be met by installing two or more septic tanks in series, each tank containing two compartments. The minimum liquid capacity of each tank shall be 1,000 gallons.

(d) The Department shall review other septic tanks designed to receive wastewater from grinder pumps or sewage lift pumps if designed by a PE to ensure that effluent discharged from the septic tank meets DSE as set forth in Table III of Rule .0402(a) of this Subchapter.

(e) An effluent filter approved in accordance with Rule .1404 of this Subchapter shall be in the outlet of the final compartment of the septic tank.

(f) When two or more tanks are used in series in accordance with Paragraphs (b) or (c) of this Rule, the following conditions shall be met:

- (1) the outlet of the initial tank shall consist of an outlet sanitary tee extending down 25 to 50 percent of the liquid depth; and
- (2) an approved effluent filter shall be in the outlet of the final compartment.

*Authority G.S. 130A-334; 130A-335(e), (f), and (f1).*

#### **15A NCAC 18E .0802 PUMP TANK CAPACITY REQUIREMENTS**

(a) The minimum pump tank liquid capacity shall be greater than or equal to the required septic tank liquid capacity as set forth in Rule .0801 of this Section.

(b) For a flow equalization system, the minimum pump tank capacity shall be based upon the sum of the volumes of the following parameters:

- (1) volume is sufficient to ensure pump submergence or as recommended by the pump manufacturer;
- (2) minimum dose volume in accordance with Rule .1101(d) of this Subchapter;
- (3) flow equalization storage; and
- (4) emergency storage capacity in accordance with Paragraph (e) of this Rule.

(c) An alternate minimum pump tank liquid capacity may be proposed by the authorized designer or PE to the LHD based upon the sum of the volumes of the following parameters:

- (1) volume is sufficient to ensure pump submergence or as recommended by the pump manufacturer;
- (2) minimum dose volume in accordance with Rule .1101(d) of this Subchapter;
- (3) flow equalization storage, if applicable; and
- (4) emergency storage capacity in accordance with Paragraph (e) of this Rule.

(d) A PE may propose an alternative design to the LHD to calculate the minimum pump tank liquid capacity required. The alternative method shall provide documentation of pump submergence, dose volume capacity, emergency storage capacity, and flow equalization storage, as applicable. The LHD shall

approve the alternative design upon a showing that all required storage capacity is accounted for in the wastewater system without reducing the required septic tank or grease tank capacities specified in Rules .0801 and .0803 of this Section.

(e) The pump tank emergency storage capacity requirement shall be determined based on the following criteria and Table XVI:

- (1) type of facility served;
- (2) classification of surface waters that would be impacted by a pump tank failure; and
- (3) availability of standby power devices and emergency maintenance personnel.

**TABLE XVI. Pump tank emergency storage capacity requirements**

<u>Facility Type</u>	<u>Surface Water Classification of Watershed</u>	<u>Standby Power and Emergency Maintenance Personnel Provisions</u>	<u>Emergency Storage Capacity Period Requirement</u>
<u>Residential systems and other systems in full time use</u>	<u>WS-I, WS-II, WS-III, SA, SB, and B waters</u>	<u>No standby power</u>	<u>24 hours</u>
		<u>Manually activated standby power and telemetry contacting a 24-hour maintenance service</u>	<u>12 hours</u>
		<u>Automatically activated standby power and telemetry contacting a 24-hour maintenance service</u>	<u>4 hours</u>
	<u>All other surface waters or no surface waters</u>	<u>No standby power</u>	<u>12 hours</u>
		<u>Manually activated standby power and telemetry contacting a 24-hour maintenance service</u>	<u>8 hours</u>
		<u>Automatically activated standby power and telemetry contacting a 24-hour maintenance service</u>	<u>4 hours</u>
<u>Non-residential</u>	<u>All surface waters</u>	<u>No standby power</u>	<u>12 hours</u>

<u>systems not in full-time use and all other systems</u>	<u>Manually activated standby power and telemetry contacting a 24-hour maintenance service</u>	<u>8 hours</u>
	<u>Automatically activated standby power and telemetry contacting a 24-hour maintenance service</u>	<u>4 hours</u>

(f) Telemetry shall be demonstrated to be operational to the authorized agent and the Management Entity prior to issuance of the OP.

*Authority G.S. 130A-335(e), (f), and (f1).*

### **15A NCAC 18E .0803 GREASE TANK CAPACITY REQUIREMENTS**

(a) Grease tanks or grease tanks used with grease traps shall be required for food preparation facilities, food processing facilities, and meat markets; churches, institutions, and places of public assembly that include a full kitchen; and other facilities expected to generate FOG levels that are higher than DSE as defined in Table III of Rule .0402(a) of this Subchapter. The grease tank shall be plumbed to receive all wastes associated with food handling, preparation, and cleanup. No toilet wastes shall be discharged to a grease tank.

(b) The minimum grease tank liquid capacity shall be 1,000 gallons or as calculated by one of the following, whichever is greater:

- (1) five gallons per meal served per day;
- (2) equal to the required septic tank liquid capacity calculated in accordance with Rule .0801 of this Section; or
- (3) equal to the capacity as determined in accordance with the following:

<u>Where</u>	<u>GLC</u>	<u>=</u>	<u>D x GL x ST x HR/2 x LF</u>
	<u>GLC</u>	<u>=</u>	<u>grease tank liquid capacity, in gallons</u>
	<u>D</u>	<u>=</u>	<u>number of seats in dining area</u>
	<u>GL</u>	<u>=</u>	<u>gallons of wastewater per meal: 1.5 single-service or 2.5 multiuse</u>
	<u>ST</u>	<u>=</u>	<u>storage capacity factor = 2.5</u>
	<u>HR</u>	<u>=</u>	<u>number of hours open</u>
	<u>LF</u>	<u>=</u>	<u>loading factor: 1.25 if along an interstate highway; 1.0 if along US Highway or recreational areas; or 0.8 if along other roads</u>

(c) When the required minimum grease tank capacity for a facility is less than or equal to 1,500 gallons, the grease tank may be a single tank with two compartments and a minimum 2:1 length to width ratio.

(d) When the required minimum grease tank capacity for a facility is greater than 1,500 gallons, the grease tank shall have a minimum 4:1 length to width ratio and four compartments. This requirement can be met by two or more tanks in series. When this requirement is met by having two or more tanks in series, each tank in the series shall have a minimum liquid capacity of 1,000 gallons and a minimum 2:1 length to width ratio.

(e) A grease rated effluent filter approved in accordance with Rule .1404 of this Subchapter shall be in the final compartment of the grease tank.

(f) When two or more grease tanks are used in series in accordance with Paragraph (d) of this Rule, the following conditions shall be met:

- (1) an approved grease rated effluent filter shall be in the final compartment; and
- (2) the outlet of the initial tank shall consist of a sanitary tee extending down 40 to 60 percent of the liquid depth.

(g) The grease tank liquid capacity requirements set forth in this Rule may be reduced by up to 50 percent when used in conjunction with a grease trap located inside the facility. The system shall be designed by a PE, if required by G.S. 89C, and approved by the Department when review of documentation provided by the PE and manufacturer demonstrate that the grease trap is projected to reduce FOG concentration by at least 50 percent.

(h) Grease traps and grease tanks shall be maintained by a septage management firm permitted in accordance with G.S. 130A-291.1, and the contents disposed of in accordance with 15A NCAC 13B .0800.

*Authority G.S. 130A-335(e), (f), and (f1).*

### **15A NCAC 18E .0804 SIPHON TANK CAPACITY REQUIREMENTS**

Siphon tanks shall be sized to provide the minimum dose requirements of Rule .1101(d) of this Subchapter, plus three inches of freeboard above the siphon trip level.

*Authority G.S. 130A-335(e), (f), and (f1).*

### **15A NCAC 18E .0805 TANK LEAK TESTING AND INSTALLATION REQUIREMENTS**

(a) All tanks installed under the following conditions shall be leak tested:

- (1) when a SWC is present within four feet of the elevation of the top of a mid-seam pump tank;
- (2) with advanced pretreatment when required in the RWTS or PIA Approval;
- (3) when required in the approved plans and specifications for a wastewater system designed by a PE;
- (4) when the tank is constructed in place; or
- (5) as required by the authorized agent based upon site or system specific conditions, such as

misaligned seams, exposed reinforcement, or damage observed that may have occurred during transport or installation.

(b) Tanks subject to leak testing in accordance with Paragraph (a) of this Rule shall be leak tested using either a hydrostatic test procedure or vacuum test procedure as follows:

(1) The operational procedures to be followed for the hydrostatic test are:

- (A) Fill tank with water to the outlet invert or pipe, as applicable;
- (B) Allow the tank to sit for one hour;
- (C) Tank shall be approved if the water level drops less than or equal to one-eighth inch in one hour;
- (D) If a leak is detected, the tank may be repaired in accordance with the tank manufacturer's written instructions, refilled, and retested;
- (E) Surface wetness or condensation shall not be considered an active water leak; and
- (F) The tank manufacturer or installer is allowed one attempt to retest the tank before the authorized agent can turn down the tank for failure to pass the leak test.

(2) The operational procedures to be followed for the vacuum test are:

- (A) Temporarily seal inlet and outlet pipes and access openings;
- (B) Using calibrated equipment, draw a vacuum on the empty tank to a negative pressure of two and one half inches of mercury;
- (C) Hold the vacuum for five minutes and re-measure and record the ending negative pressure inside the tank;
- (D) No bracing or internal support that is not part of the approved tank shall be allowed;
- (E) Tank shall be approved if the difference between the starting negative pressure and the ending negative pressure is less than or equal to one-fifth inch;
- (F) If a leak is detected, the tank may be repaired in accordance with the tank manufacturer's written instructions and retested;
- (G) The tank manufacturer or installer is allowed one attempt to retest the tank before the authorized agent can turn down the tank for failure to pass the leak test; and
- (H) All tank openings shall be un-sealed after the vacuum test is completed.

(c) Tanks unable to pass a leak test or be repaired to pass a leak test shall be removed from the site and the imprint described in Rule .1402(d)(15) or (e)(8) of this Subchapter marked over.

(d) The tank outlet pipe shall be inserted through the outlet pipe penetration boot, creating a watertight joint, and extending a minimum of two feet beyond the tank outlet.

(e) The tank outlet pipe shall be placed on undisturbed soil or bedded in accordance with Rule .0703(b) of this Subchapter to prevent differential settling of the pipe. The pipe shall be level for a minimum of two feet after exiting the tank.

(f) The tank shall be installed level. A tank is considered level if the difference between the front and back is plus or minus one inch and the difference from side to side is plus or minus one inch. The tank excavation, bedding, backfill, and compaction shall be in accordance with the tank manufacturer's installation requirements and the tank approval.

(g) The tank excavation shall be separated from the dispersal system by at least two feet of undisturbed soil. Piping from the tank to the next component shall be placed on undisturbed soil, compacted soil, or bedded using sand, gravel, stone, or other aggregate.

(h) Effluent filters and risers shall be installed in accordance with the design and construction criteria of Rule .1402(b) and (c) of this Subchapter.

(i) Any system serving a facility with a DDF greater than 3,000 gpd shall have access manholes installed on the tank and extending at a minimum to finished grade. The access manholes shall be designed and maintained to prevent surface water inflow and sized to allow access for routine inspections, operation, and maintenance.

*Authority G.S. 130A-335(e), (f), and (f1).*

## **SECTION .0900 – SUBSURFACE DISPERSAL**

### **15A NCAC 18E .0901 GENERAL DESIGN AND INSTALLATION CRITERIA FOR SUBSURFACE DISPERSAL SYSTEMS**

(a) Wastewater systems shall be used on sites classified suitable in accordance with Rule .0509 of this Subchapter. The sizing and siting criteria in this Rule shall be based on soil receiving DSE. The site shall meet the following minimum criteria:

- (1) 12 inches of naturally occurring soil between the infiltrative surface and any LC; and
- (2) 18 inches of separation between the infiltrative surface and any SWC if more than six inches of separation consists of Group I soils.

(b) If any part of the trench or bed media extends above the naturally occurring soil surface, the system shall be a fill system and shall meet the requirements of Rule .0909 of this Section.

(c) The LTAR shall be determined in accordance with the following:

- (1) Tables XVII and XVIII shall be used, as applicable;
- (2) the LTAR shall be assigned based upon soil textural class or saprolite textural class, as applicable, structure, consistence, SWC, depth, percent coarse rock, landscape position, topography, and system type;
- (3) LTARs determined from Table XVII shall be based on the soil textural class of the most limiting, naturally occurring soil horizon to a

- (4) depth of 12 inches below the infiltrative surface or 18 inches to any SWC if more than six inches of the separation consists of Group I soils; LTARs determined from Table XVIII shall be based on the saprolite textural class of the most limiting, naturally occurring saprolite to a depth of 24 inches below the infiltrative surface, or less than 24 inches if combined with soil in accordance with Rule .0506(b) of this Subchapter; and
- (5) for facilities that generate HSE as specified in Rule .0401(h) of this Subchapter or a facility with a full kitchen, the LTAR shall not exceed the mean rate for the applicable Soil Group.

**TABLE XVII. LTAR for wastewater systems based on Soil Group and texture class**

<b>Soil Group</b>	<b>USDA Soil Textural Class</b>		<b>LTAR in gpd/ft<sup>2</sup></b>
<b>I</b>	<u>Sands</u>	<u>Sand</u>	<u>0.8 – 1.2</u>
		<u>Loamy Sand</u>	
<b>II</b>	<u>Coarse Loams</u>	<u>Sandy Loam</u>	<u>0.6 – 0.8</u>
		<u>Loam</u>	
<b>III</b>	<u>Fine Loams</u>	<u>Sandy Clay Loam</u>	<u>0.3 – 0.6</u>
		<u>Silt Loam</u>	
		<u>Clay Loam</u>	
		<u>Silty Clay Loam</u>	
		<u>Silt</u>	
<b>IV</b>	<u>Clays</u>	<u>Sandy Clay</u>	<u>0.1 – 0.4</u>
		<u>Silty Clay</u>	
		<u>Clay</u>	

**TABLE XVIII. LTAR for wastewater systems in saprolite based on Saprolite Group and texture class**

<b>Saprolite Group</b>	<b>Saprolite Textural Class</b>		<b>LTAR in gpd/ft<sup>2</sup></b>
<b>I</b>	<u>Sands</u>	<u>Sand</u>	<u>0.6 – 0.8</u>
		<u>Loamy Sand</u>	<u>0.5 – 0.7</u>
<b>II</b>	<u>Loams</u>	<u>Sandy Loam</u>	<u>0.4 – 0.6</u>
		<u>Loam</u>	<u>0.2 – 0.4</u>
<b>III</b>	<u>Fine Loams</u>	<u>Silt Loam</u>	<u>0.1 – 0.3</u>
		<u>Sandy Clay Loam*</u>	<u>0.05 – 0.15</u>

\* Sandy clay loam saprolite can only be used with advanced pretreatment in accordance with Section .1200 of this Subchapter.

(d) The minimum required infiltrative surface area and trench length shall be calculated in accordance with the following:

- (1) the minimum required infiltrative surface area shall be calculated by dividing the DDF by the LTAR;
- (2) the minimum trench length shall be calculated by dividing the minimum required infiltrative surface area by the equivalent trench width. The

following equation shall be used to calculate the minimum trench length required:

$$\frac{TL}{ETW} = (DDF \div LTAR) \div$$

Where  $\frac{TL}{DDF} =$  trench length, in feet  
 $\frac{DDF}{gpd} =$  design daily flow, in  
 $\frac{LTAR}{ETW} =$  in gpd/ft<sup>2</sup>  
equivalent trench  
width, in feet;

- (3) the area occupied by step-downs, drop boxes, and supply lines shall not be part of the minimum required infiltrative surface area;
- (4) the total trench length required for trench products other than conventional gravel shall be as follows:

(A) for trench products identified in Section .0900 of this Subchapter, the minimum line length shall be calculated in accordance with this Section; or

(B) for trench products approved under Section .1700 of this Subchapter, the minimum line length shall be calculated in accordance with the PIA Approval; and

- (5) when HSE is proposed to be discharged to a dispersal field with no advanced pretreatment or has not been reclassified as DSE in accordance with Rule .0402(c) of this Subchapter, a licensed professional, if required in G.S. 89C, 89E, or 89F, shall calculate the adjusted LTAR in accordance with Rule .0402(b)(2) of this Subchapter.

(e) Any dispersal field where cover is required above the naturally occurring soil surface shall not be installed on slopes greater than 30 percent.

(f) Soil cover above the original grade shall be placed over the entire dispersal field and shall extend laterally five feet beyond the trenches. On level sites, the final grade of the dispersal field shall be crowned at one-half percent grade as measured from the centerline of the dispersal field.

(g) Wastewater system installation shall be in accordance with the following criteria:

- (1) a device that measures elevation, such as an engineer's level or laser level shall be used for the following:

(A) staking, flagging, or marking on the ground surface the location of trenches on site before installation begins;

(B) installation of the trenches; and

(C) verification of elevations, excavations, and installation of other system components;

- (2) trenches shall be installed with 12 inches of naturally occurring suitable soil between the infiltrative surface and any unsuitable LC. If the vertical separation between the infiltrative surface and any SWC is less than 18 inches, and

- if more than six inches of the separation consists of Group I soils, a pressure dispersal system shall be required;
- (3) the trenches shall follow the ground contour. Trenches may be installed level but off contour if an authorized agent has determined that there is sufficient vertical separation to a LC along the entire trench length in accordance with Subparagraph (2) of this Paragraph;
  - (4) the lateral shall be centered horizontally in the trench;
  - (5) the type and placement of soil cover shall be approved by the authorized agent in accordance with this Subparagraph. The cover material shall be free of trash, debris, or large clods that do not break apart. The system can be installed utilizing native backfill unless otherwise specified in this Section or the PIA Approval;
  - (6) final soil cover over the dispersal field shall be a minimum of six inches deep after settling. The finished grade over the tanks and dispersal field shall be sloped to shed surface water;
  - (7) surface water runoff, including stormwater, gutter drains, or downspouts, shall be diverted away from the wastewater system. No depressions shall be allowed over the dispersal field area;
  - (8) Schedule 40 PVC or other pipe approved pursuant to Section .0700 of this Subchapter may be used as needed to connect sections of trench and overcome site limitations. The trench bottom area where solid piping is installed shall not be included as part of the minimum required infiltrative surface area;
  - (9) gravity effluent distribution components including distribution boxes, drop boxes, and flow diversion devices shall be watertight, corrosion resistant, constructed to withstand active and passive loads, and their installation shall meet the following criteria:
    - (A) separated by a minimum of two feet of undisturbed soil from the septic tank and trench(es);
    - (B) placed level on a solid foundation of undisturbed soil, pea gravel, or concrete to prevent differential settling of the component; and
    - (C) backfilled by hand to minimize disturbance;
  - (10) when parallel distribution is used to distribute effluent to the trenches, the installer shall demonstrate to the authorized agent during the final inspection that the distribution devices perform as designed;
  - (11) serial and sequential distribution shall be approved by the authorized agent when the step-down or drop box in an individual trench is constructed to allow full utilization of the upstream trench prior to overflowing to the next downslope trench in accordance with the following criteria:
    - (A) step-downs shall be constructed of a minimum of two feet of undisturbed soil, bedding material, or concrete and the effluent shall be conveyed over the step-down through Schedule 40 PVC or other pipe approved in accordance with Rule .0703 of this Subchapter. The installer shall demonstrate that the step-downs perform as designed. The authorized agent shall approve the step-downs when the installation and elevations have been verified in accordance with the CA; or
    - (B) drop boxes shall be separated from the trench by a minimum of two feet of undisturbed soil and constructed to allow for full utilization of the upstream trench prior to overflowing to the next lower drop box. The installer shall demonstrate that the drop boxes perform as designed. The authorized agent shall approve the drop boxes when the installation and elevations have been verified in accordance with the CA; and
  - (12) trench products other than conventional gravel shall be installed as follows:
    - (A) for trench products identified in Section .0900, the trench products shall be installed in accordance with this Section; or
    - (B) for trench products approved under Section .1700 of this Subchapter, the trench products shall be installed in accordance with their PIA Approval.
- (h) Alternating dual dispersal fields shall only be used with DSE in Soil Groups III and IV. Alternating dual dispersal fields shall be approved when designed and installed in accordance with Paragraph (g) of this Rule and the following:
- (1) both initial and repair dispersal fields shall be installed at the same time;
  - (2) initial and repair dispersal fields of the same system type are each sized at a minimum of 75 percent of the total trench length required;
  - (3) the initial and repair dispersal fields shall be separated by an effluent flow diversion valve(s);
  - (4) diversion valve(s) shall be resistant to 500 pounds crushing strength and corrosion resistant;
  - (5) effluent flow diversion valves shall be installed below finished grade in a valve box and be accessible and operable from the ground surface; and
  - (6) trench products approved under Section .1700 of this Subchapter shall be installed in accordance with their PIA Approval.

*Authority G.S. 130A-335(e), (f), and (f1).*

**15A NCAC 18E .0902 CONVENTIONAL WASTEWATER SYSTEMS**

(a) A conventional wastewater system shall consist of a septic tank and a gravity distribution dispersal field. In addition to the requirements set forth in Rule .0901 of this Section, this Rule shall apply to conventional wastewater systems as defined in G.S. 130A-343.

(b) In addition to the installation requirements set forth in Rule .0901(g) of this Section, the following shall apply:

- (1) trenches shall be constructed level in all directions with a plus or minus one-half inch tolerance from side-to-side and the maximum fall in a single trench not to exceed one-fourth inch in 10 feet as determined by a device that measures elevation, such as an engineer's level or laser level;
- (2) trenches shall be located not less than three times the trench width on centers. The minimum spacing for trenches is six feet on center;
- (3) trench widths shall be at least two feet, but no more than three feet, and trench depth shall not exceed 36 inches on the downslope side of the trench, except as approved by an authorized agent;
- (4) aggregate used in trenches shall be clean, washed gravel or crushed stone and graded or sized in accordance with size numbers 4, 5, or 6 of ASTM D448. The aggregate shall be distributed uniformly across the infiltrative surface and over the pipe and placed 12 inches deep with a minimum of six inches below the pipe and two inches over the pipe; and
- (5) the laterals shall meet the requirements of Rule .0703(d) of this Subchapter.

*Authority G.S. 130A-335(e) and (f); 130A-343.*

**15A NCAC 18E .0903 BED SYSTEMS**

(a) This Rule shall apply to bed systems receiving DSE.

(b) Bed systems shall be limited to 600 gpd unless approved for a greater DDF in accordance with a PIA Approval.

(c) Sites for bed systems shall meet the following criteria:

- (1) soil texture is Group I, II, or III; and
- (2) design options for the site are limited by topography or available space.

(d) The number of square feet of infiltrative surface area required shall be increased by 50 percent over that required for a trench system as calculated in accordance with Rule .0901(d) of this Section.

(e) In addition to the installation requirements set forth in Rule .0901(g) of this Section, the following shall apply:

- (1) the bottom of the bed shall be excavated level, plus or minus one-half inch, in all directions;
- (2) laterals shall be one and one-half feet from the side of the bed;

- (3) laterals shall be placed on three-foot centers;
- (4) aggregate used shall comply with the requirements of Rule .0902(b)(4) of this Section;
- (5) products approved under Section .1700 of this Subchapter shall be installed in accordance with their PIA Approval;
- (6) the gravel surface shall be covered by an approved geo-textile fabric capable of preventing the downward movement of soil particles while allowing the movement of liquids and gases; and
- (7) when pressure dispersal is used, the lateral design criteria shall meet the minimum requirements of Rules .0907(e) or .0908(d) of this Section or in accordance with a PIA Approval.

*Authority G.S. 130A-335(e), (f), and (f1).*

**15A NCAC 18E .0904 LARGE DIAMETER PIPE SYSTEMS**

(a) LDP systems consist of laterals composed of corrugated, polyethylene tubing encased in a nylon and polyester blend filter wrap that are installed in trenches in the dispersal field. The laterals shall be one of the following:

- (1) eight-inch inside diameter with a 10-inch outside diameter; or
- (2) 10-inch inside diameter with a 12-inch outside diameter.

(b) LDP systems shall only be used with DSE.

(c) LDP pipe, filter wrap, and fittings shall meet the following criteria:

- (1) pipe and fittings shall comply with the requirements of ASTM F667;
- (2) the corrugated pipe shall have two rows of holes, each hole between three-eighths inch and one-half inch in diameter, located 120 degrees apart along the bottom half of the pipe with each hole 60 degrees from the bottom center line, and staggered so that one hole is present in the valley of each corrugation;
- (3) pipe shall be marked with a visible top location indicator, 120 degrees away from each row of holes;
- (4) corrugated pipe shall be covered with filter wrap at the factory;
- (5) filter wrap shall be spun, bonded, or spunlaced nylon, polyester, or nylon/polyester blend filter wrap meeting the minimum requirements in Table XIX; and
- (6) the LDP with filter wrap shall be encased in a black polyethylene sleeve prior to installation in the trench to prevent physical damage and ultraviolet radiation deterioration of the filter wrap.



**Table XIX. Minimum filter wrap requirements for LDP**

<u>Property</u>	<u>Value</u>
<u>Unit Weight</u>	<u>1.0 ounce per square yard</u>
<u>Sheet Grab Tensile Strength</u>	<u>Machine Direction: 23 pounds</u>
<u>Trapezoid Tear Strength</u>	<u>Machine Direction: 6.2</u>
<u>Mullen Burst Strength</u>	<u>40 psi or 276 kilopascals</u>
<u>Frazier Air Permeability</u>	<u>500 cubic feet per minute per square foot at pressure differential of one-half inch of water</u>

(d) The requirements of Rule .0901 of this Section shall apply to LDP systems except as follows:

- (1) the LTAR determined in accordance with Rule .0901(c) of this Section shall not exceed 0.8 gpd/ft<sup>2</sup>; and
- (2) to calculate the minimum trench length in accordance with Rule .0901(d) of this Section, an equivalent trench width of two feet shall be used for eight-inch LDP and two and one-half feet shall be used for 10-inch LDP.

(e) In addition to the requirements set forth in Rule .0901(g) of this Section, LDP system installations shall comply with the following:

- (1) trenches for eight-inch LDP shall be a minimum of 10 inches and a maximum of 18 inches wide. Trenches for ten-inch LDP shall be a minimum of 12 inches and a maximum of 24 inches wide;
- (2) the infiltrative surface and pipe shall be level with a maximum fall of one inch in 100 feet;
- (3) backfill shall have no more than 10 percent by volume of fibrous organics, building rubble, rocks, large clods, or other debris and shall be Soil Groups I, II, or III;
- (4) the LDP shall be connected to the collection sewer or a stepdown pipe using an offset adapter to create a mechanical joint; and
- (5) the minimum on center spacing for eight-inch LDP shall be five feet and for 10-inch LDP shall be six feet.

*Authority G.S. 130A-335(e) and (f).*

**15A NCAC 18E .0905 PREFABRICATED PERMEABLE BLOCK PANEL SYSTEMS**

(a) PPBPS utilize both horizontal and vertical air chambers in a 16-inch PPBPS and are constructed to promote downline and horizontal distribution of effluent. PPBPS systems shall only be used with DSE.

(b) The requirements of Rule .0901 of this Section shall apply to PPBPS systems except as follows:

- (1) the LTAR determined in accordance with Rule .0901(c) of this Section shall not exceed 0.8 gpd/ft<sup>2</sup>; and
- (2) to calculate the minimum trench length in accordance with Rule .0901(d) of this Section,

an equivalent trench width of six feet shall be used.

(c) In addition to the requirements set forth in Rule .0901(g) of this Section, PPBPS system installations shall comply with the following and the manufacturer's specifications:

- (1) PPBPS trenches shall be located a minimum of eight feet on center or three times the trench width, whichever is greater;
- (2) trench sidewalls shall be raked in Group IV soils;
- (3) pressure dosed gravity distribution or pressure dispersal shall be used when the individual trench lengths are greater than 50 feet and less than or equal to 70 feet; and
- (4) pressure dispersal shall be used when the individual trench lengths are greater than 70 feet.

*Authority G.S. 130A-335(e) and (f).*

**15A NCAC 18E .0906 SAND LINED TRENCH SYSTEMS**

(a) Sand lined trench systems receiving DSE may be used on sites originally classified unsuitable due to SWC, soil morphology, restrictive horizon, or soil depth that may be reclassified as suitable in accordance with this Rule when there is a DDF less than or equal to 1,500 gpd.

(b) Sand lined trench systems with advanced pretreatment shall comply with Rule .1205 of this Subchapter.

(c) The soil and site shall meet the following criteria:

- (1) the texture of the receiving permeable horizon is sand, loamy sand, sandy loam, loam, or silt loam;
- (2) the structure of the receiving permeable horizon is classified suitable;
- (3) the moist consistence of the receiving permeable horizon is loose, very friable, friable, or firm;
- (4) if the receiving permeable horizon has zones of heavier textured materials, these zones are discontinuous with an average thickness not exceeding one-third of the required thickness of the receiving permeable horizon;
- (5) the naturally occurring receiving permeable horizon shall be less than or equal to 60 inches below the naturally occurring soil surface. If the receiving permeable horizon is greater than 60

- (6) inches below the naturally occurring soil surface, advanced pretreatment shall be used in accordance with Rule .1205 of this Subchapter; artificial drainage shall be provided, as needed, to maintain the following minimum vertical separation from the infiltrative surface to a SWC:
- (A) 18 inches with gravity or pressure dosed gravity distribution; or
- (B) 12 inches with pressure dispersal; and
- (7) the minimum required thickness of the receiving permeable horizon shall be determined by the texture of that horizon as follows:
- (A) sand or loamy sand texture requires a minimum thickness of one foot;
- (B) sandy loam or loam texture requires a minimum thickness of two feet; or
- (C) silt loam texture requires a minimum thickness of three feet.
- (d) If a groundwater lowering system is required to comply with the minimum vertical separation in Paragraph (c)(6) of this Rule to a SWC that is not related to lateral water movement, design plans and specifications shall be prepared by a licensed professional if required in G.S. 89C, 89E, or 89F. The groundwater lowering system shall:
- (1) extend into the receiving permeable horizon;
- (2) have an outlet with location and elevation that allows for free discharge of groundwater as required for the groundwater lowering system to be functional. The outlet location and elevation shall be shown on the artificial drainage system plan with relative water level elevations and wastewater system site elevations labeled; and
- (3) all groundwater lowering system components are integral to the wastewater system and subject to ownership and control requirements of Rule .0301(b) and (c) of this Subchapter.
- (e) The LTAR shall be determined in accordance with Table XX for sand-lined trench systems. The minimum trench length shall be calculated in accordance with Rule .0901(d) of this Section, except that the ETW shall be equal to the installed trench width. The LTAR shall be based on the lesser of the following:
- (1) LTAR set forth in Table XX based on the most hydraulically limiting, naturally occurring soils overlying the permeable receiving horizon; or
- (2) 10 percent of the in-situ Ksat of the receiving permeable horizon.

**TABLE XX.** LTAR for sand lined trench systems based on the most hydraulically limiting, naturally occurring soils overlying the permeable receiving horizon

<b>Soil Group</b>	<b>Texture of Most Hydraulically Limiting Overlying Soil Horizon</b>	<b>Distribution Type</b>	<b>LTAR in gpd/ft<sup>2</sup></b>
<b>I</b>	<u>Sands</u>	<u>Gravity or Pressure Dosed Gravity</u>	<u>0.7 – 0.9</u>
		<u>Pressure Dispersal</u>	<u>0.8 – 1.2</u>
<b>II</b>	<u>Coarse Loams</u>	<u>Gravity or Pressure Dosed Gravity</u>	<u>0.5 – 0.7</u>
		<u>Pressure Dispersal</u>	<u>0.6 – 0.8</u>
<b>III</b>	<u>Fine Loams</u>	<u>Gravity or Pressure Dosed Gravity</u>	<u>0.2 – 0.4</u>
		<u>Pressure Dispersal</u>	<u>0.3 – 0.6</u>
<b>IV</b>	<u>Clays</u>	<u>Gravity or Pressure Dosed Gravity</u>	<u>0.1 – 0.2</u>
		<u>Pressure Dispersal</u>	<u>0.15 – 0.3</u>

- (f) There shall be no reduction in trench length compared to a conventional wastewater system when Accepted or Innovative gravelless trench product is used.
- (g) A special site evaluation in accordance with Rule .0510 of this Subchapter shall be required for the following conditions to field verify the LTAR:
- (1) the texture of the receiving permeable horizon is sandy loam or loam and the system DDF is greater than 600 gpd; or
- (2) the texture of the receiving permeable horizon is silt loam.
- (h) In addition to the requirements set forth in Rule .0901(g) of this Section, sand lined trench system installations shall comply with the following:
- (1) gravity trenches shall have a maximum width of three feet and a minimum width of one and a half feet;
- (2) trenches shall be located not less than three times the trench width on center. The minimum spacing for trenches shall be five feet on center;
- (3) the sand lined trenches shall be constructed to extend into the naturally occurring receiving permeable horizon;
- (4) the infiltrative surface shall be no deeper than 24 inches below finished grade. The top of the trench media shall be at or below the naturally occurring soil surface. Drip tubing shall be installed a minimum of six inches below the natural grade;

- (5) soil used to line the trench shall be sand in texture. The installer shall provide written laboratory verification of the media textural classification and quality when requested by the LHD based on a visual inspection of the sand used during installation. When laboratory analysis is required, the material shall be clean, uncoated fine, medium, or coarse sand with a minimum of 90 percent in sizes ranging from 0.1 to 2.0 millimeters, with no more than one percent smaller than 0.074 millimeters or a No. 200 Sieve;
- (6) pressure dosed gravity distribution or pressure dispersal shall be used when the total dispersal field line length exceeds 750 linear feet in a single system;
- (7) pressure dispersal shall be used when the total dispersal field line length exceeds 1,200 linear feet in a single system;
- (8) when pressure dispersal is used, the pressure dispersal network shall be designed in accordance with Rules .0907(e) or .0908(f) of this Section, except that the trench width shall comply with this Paragraph. The total line length shall be calculated based on infiltrative surface area;
- (9) drip dispersal systems in sand lined trenches shall require multiple runs per trench of drip tubing with emitters as follows:
- (A) a minimum of two runs within a trench between one and one half and two feet wide; and
- (B) a minimum of three runs within a trench between two and three feet wide.
- The drip tubing shall be uniformly spaced across the trench with the tubing six inches from the trench sidewalls. Drip tubing shall be covered by a minimum of six inches of sand lined trench media meeting the requirements of Subparagraph (5) of this Paragraph. Drip dispersal systems shall comply with the requirements of Section .1600 of this Subchapter and this Rule;
- (10) finished grade shall provide for positive surface drainage away from all system components, with the dispersal field crowned at one-half percent as measured from the centerline of the dispersal field. The finished grade requirements shall be made a condition of the CA; and
- (11) trench products approved under Section .1700 of this Subchapter shall be installed in accordance with PIA Approval.

(i) Other sand lined trench systems may be approved on a site-specific basis in accordance with Rule .0509(c) of this Subchapter.

*Authority G.S. 130A-335(e) and (f).*

## **15A NCAC 18E .0907 LOW PRESSURE PIPE SYSTEMS**

(a) LPP systems utilize a network of small diameter pipes with three feet to six feet pressure head to distribute effluent across the entire dispersal field. Any subsurface dispersal system listed in this Section may incorporate LPP dispersal.

(b) LPP systems with advanced pretreatment shall comply with Rules .1202, .1203, .1205, or .1206 of this Subchapter.

(c) The LTAR shall be determined as follows:

- (1) Tables XXI and XXII shall be used to determine the LTAR for LPP systems, as applicable;
- (2) the LTAR determined from Table XXI shall be based on the soil textural class of the most limiting, naturally occurring soil horizon to a depth of 12 inches below the infiltrative surface;
- (3) the LTAR determined from Table XXII shall be based on the saprolite textural class of the most limiting, naturally occurring saprolite to a depth of 24 inches below the infiltrative surface, or less than 24 inches if combined with soil in accordance with Rule .0506(b) of this Subchapter; and
- (4) for facilities that generate HSE as specified in Rule .0401(h) of this Subchapter or a facility with a full kitchen, the LTAR shall not exceed the mean rate for the applicable Soil Group.

**TABLE XXI. LTAR for LPP systems based on Soil Group and texture class**

<b>Soil Group</b>	<b>USDA Soil Textural Class</b>		<b>LTAR in gpd/ft<sup>2</sup></b>
<b>I</b>	<b>Sands</b>	<u>Sand</u>	<u>0.4 – 0.6</u>
		<u>Loamy Sand</u>	
<b>II</b>	<b>Coarse Loams</b>	<u>Sandy Loam</u>	<u>0.3 – 0.4</u>
		<u>Loam</u>	
<b>III</b>	<b>Fine Loams</b>	<u>Sandy Clay Loam</u>	<u>0.15 – 0.3</u>
		<u>Silt Loam</u>	
		<u>Clay Loam</u>	
		<u>Silty Clay Loam</u>	
		<u>Silt</u>	
<b>IV</b>	<b>Clays</b>	<u>Sandy Clay</u>	<u>0.05 – 0.2</u>
		<u>Silty Clay</u>	
		<u>Clay</u>	

**TABLE XXII. LTAR for LPP systems in saprolite based on Saprolite Group and texture class**

<b>Saprolite Group</b>	<b>Saprolite Textural Class</b>		<b>LTAR in gpd/ft<sup>2</sup></b>
<b>I</b>	<b>Sands</b>	<u>Sand</u>	<u>0.3 – 0.4</u>
		<u>Loamy Sand</u>	<u>0.25 – 0.35</u>
<b>II</b>	<b>Loams</b>	<u>Sandy Loam</u>	<u>0.2 – 0.3</u>
		<u>Loam</u>	<u>0.1 – 0.2</u>
		<u>Silt Loam</u>	<u>0.05 – 0.15</u>

(d) The minimum required dispersal field area and trench length shall be calculated in accordance with the following:

- (1) the minimum required dispersal field area shall be calculated by dividing the DDF by the LTAR; and
- (2) the minimum trench length shall be calculated by dividing the required dispersal field area by a lateral spacing of five feet. The following equation shall be used to calculate the minimum line length required.

$$\frac{TL}{LS} = (DDF \div LTAR) \div \text{spacing}$$

Where  $TL$  = length of trench, in feet

$DDF$  = design daily flow, in gpd

$LTAR$  = in gpd/ft<sup>2</sup>

$LS$  = five-foot line

- (3) When HSE is proposed to be discharged to an LPP dispersal field with no advanced pretreatment or has not been reclassified as DSE in accordance with Rule .0402(c) of this Subchapter, a licensed professional, if required in G.S. 89C, 89E, or 89F, shall calculate the adjusted LTAR in accordance with Rule .0402(b) of this Subchapter.

(e) In addition to the requirements set forth in Rule .0901(g) of this Section, LPP system design and installation shall comply with the following, unless otherwise specified in a PIA Approval:

- (1) the LPP distribution network shall be constructed of one to two-inch diameter pressure rated Schedule 40 PVC laterals placed in gravel that meets the requirements in Rule .0902(b)(4) of this Section or other approved media;
- (2) the trench width shall be one to two feet;
- (3) trenches shall be located not less than three times the trench width on center. The minimum spacing for trenches shall be five feet on center;
- (4) trenches shall include a minimum of eight inches of gravel or other approved media, either from a PIA Approval or subsurface dispersal system listed in Section .0900 of this Subchapter. The lateral shall be installed a minimum of five inches above the infiltrative surface;
- (5) laterals, manifolds and LPP fields shall comply with the following design criteria:
  - (A) the maximum lateral length shall yield no more than a 10 percent difference in orifice delivery rate between the first and last orifice along the lateral;
  - (B) no more than one-third of the total number of holes shall be less than 5/32 inches in diameter, with no orifices sized smaller than one-eighth inch in diameter in any lateral line;

(C) all orifices shall face upwards, except for two orifices, one-third of the way from the beginning and end of each lateral, which shall face downward; and

(D) maximum orifice spacing shall be as follows: Soil Group I - five feet; Soil Group II - six feet; Soil Group III - eight feet; and Soil Group IV - 10 feet;

(6) the orifices shall be protected by the following:

- (A) lateral sleeved within a three or four-inch perforated corrugated or smooth wall tubing meeting the requirements of Rule .0703(d) of this Subchapter; or
- (B) specially designed and approved orifice shields;

(7) the following additional design provisions shall be required for sloping sites:

(A) separately valved manifolds shall be required for all subfield segments where the elevation difference between the highest and lowest laterals exceeds three feet;

(B) the orifice spacing, orifice size or both shall be adjusted to compensate for relative elevation differences between laterals branching off a common supply manifold and to compensate for the lines at the lowest elevation receiving more effluent at the beginning and end of a dosing cycle;

(C) the lateral network shall be designed to achieve a 10 to 30 percent higher steady state flow rate into the upper lines, relative to the lower lines, depending on the amount of elevation difference. The steady state flow rate is based on the pipe being full; and

(D) maximum elevation difference between the highest and lowest laterals in a field shall not exceed 10 feet unless the flow is uniformly divided using multiple pumps or split between subfield segments without requiring simultaneous adjustment of multiple pressure regulating valves in separate locations. Flow shall be uniformly divided such that the dose volumes to the subfields does not vary more than 10 percent on an area basis. The Department shall approve other designs based upon the authorized designer or PE providing documentation showing equivalent hydraulic performance to this Subparagraph;

(8) turn-ups shall be provided at the ends of each lateral, constructed of Schedule 40 PVC pipe or stronger pressure-rated pipe, and shall

terminate at the ground surface and be installed in a valve box or equivalent that provides access for operation and maintenance;

(9) the supply manifold shall be constructed of solvent-welded pressure rated Schedule 40 PVC;

(10) the supply manifold shall be sized large enough based on the size and number of laterals served to prevent more than a 20 percent variation in pressure head between the first and last laterals due to losses within the manifold when feeding the manifold from a lower elevation;

(11) the supply manifold shall comply with the following design criteria:

(A) the ratio of the supply manifold inside cross-sectional area to the sum of the inside cross-sectional areas of the laterals served shall exceed 0.7:1 as measured from where the supply line connects to the manifold;

(B) the reduction between the manifold and connecting laterals shall be made off the manifold using reducing tees or fittings; and

(C) cleanouts shall be installed at the distal ends of the supply manifold and shall be enclosed in valve boxes accessible from the ground surface;

(12) pressure regulating valves shall be provided for pressure adjustment at the fields;

(13) valves shall be installed in an access device, such as a valve box, and be accessible and operable from the ground surface. Valves serving contiguous subfields shall be in a common valve box;

(14) the LPP dosing system shall comply with the following design criteria:

(A) the pump operating flow rate shall be based upon delivering three feet to six feet of residual pressure head at the distal end of all laterals;

(B) the dose volume shall be between five and 10 times the liquid capacity of the lateral pipe dosed, plus the liquid capacity of the portions of manifold and supply lines which drain between doses; and

(C) when pumping downhill and the supply line volume exceeds 20 percent of the calculated dose volume, special design considerations shall be followed to prevent more than 20 percent of the dose volume from draining by gravity to the dispersal field between doses; and

(15) the trenches shall be covered to a minimum depth of four inches after settling.

(f) The authorized agent or Department may approve on a site-specific basis drip dispersal systems used in LPP trenches and

other LPP designs based on documentation showing that the proposed design meets the performance requirements of this Rule.

*Authority G.S. 130A-335(e) and (f).*

#### **15A NCAC 18E .0908 DRIP DISPERSAL SYSTEMS**

(a) This Rule provides for the permitting of drip dispersal systems receiving DSE. Drip dispersal systems shall comply with the provisions of this Rule and Section .1600 of this Subchapter.

(b) Drip dispersal systems with advanced pretreatment shall comply with Rule .1204 of this Subchapter.

(c) Drip dispersal systems shall meet the following soil and site criteria:

(1) A minimum of 18 inches of naturally occurring suitable soil above a LC, 13 inches of naturally occurring suitable soil above a SWC, and the minimum vertical separation to any LC shall be 12 inches. A groundwater lowering system may be used to comply with the vertical separation to a SWC when only Group I or II soils with suitable structure are present within 36 inches of the naturally occurring soil surface.

(2) For new fill, the soil and site shall meet the following criteria:

(A) Rule .0909(b) and (c) of this Section, except as otherwise specified in this Subparagraph;

(B) no SWC shall exist within the first 12 inches below the naturally occurring soil surface. A groundwater lowering system shall not be used to comply with the initial site requirements for a new fill system; and

(C) minimum vertical separation to any unsuitable soil horizon or rock shall be 18 inches and 12 inches for any SWC.

(3) For existing fill, the soil and site shall meet the following criteria:

(A) Rule .0909(d) and (e) of this Section, except as otherwise specified in this Subparagraph; and

(B) minimum vertical separation to any LC shall be 24 inches.

(d) Tables XXIII and XXIV shall be used to determine the LTAR for all DSE drip dispersal systems:

(1) Table XXIII shall be used for systems utilizing soil. The LTAR shall be based on the most limiting, naturally occurring soil horizon within 18 inches of the naturally occurring soil surface or to a depth of 12 inches below the infiltrative surface, whichever is deeper;

(2) Table XXIV shall be used for systems utilizing saprolite. The LTAR shall be based on the most limiting, naturally occurring saprolite to a depth of 24 inches below the infiltrative surface;

(3) the LTAR for new fill systems shall not exceed 0.5 gpd/ft<sup>2</sup> for Group I, 0.3 for gpd/ft<sup>2</sup> Group II, 0.15 gpd/ft<sup>2</sup> for Group III or 0.05 gpd/ft<sup>2</sup> for Group IV soils, respectively;

- (4) sections of blank tubing without emitters shall not count towards the minimum dripline length required; and
- (5) the DDF shall be divided by the LTAR, determined from Table XXIII or XXIV, to determine the minimum dispersal field area required. The minimum dripline length shall be determined by dividing the required area by the maximum line spacing of two feet. The designer may recommend additional linear footage as soil and site conditions allow. The following equations shall be used to calculate

the minimum dispersal field area and dripline length required:

$$\begin{aligned} \text{MA} &= \text{DDF} \div \text{LTAR} \\ \text{DL} &= \text{MA} \div \text{LS} \\ \text{Where } \text{MA} &= \text{minimum dispersal field area, in ft}^2 \\ \text{DDF} &= \text{design daily flow, in gpd} \\ \text{LTAR} &= \text{in gpd/ft}^2 \\ \text{DL} &= \text{dripline length, in feet} \\ \text{LS} &= \text{two-foot line spacing} \end{aligned}$$

**TABLE XXIII. LTAR for DSE drip dispersal systems based on Soil Group and texture class**

<u>Soil Group</u>	<u>USDA Soil Textural Class</u>	<u>LTAR in gpd/ft<sup>2</sup></u>
<u>I</u>	<u>Sands</u>	<u>Sand</u>
		<u>Loamy Sand</u>
<u>II</u>	<u>Coarse Loams</u>	<u>Sandy Loam</u>
		<u>Loam</u>
<u>III</u>	<u>Fine Loams</u>	<u>Sandy Clay Loam</u>
		<u>Silt Loam</u>
		<u>Clay Loam</u>
		<u>Silty Clay Loam</u>
		<u>Silt</u>
<u>IV</u>	<u>Clays</u>	<u>Sandy Clay</u>
		<u>Silty Clay</u>
		<u>Clay</u>

**TABLE XXIV. LTAR for DSE drip dispersal systems based on Saprolite Group and texture class**

<u>Saprolite Group</u>	<u>Saprolite Textural Class</u>	<u>LTAR in gpd/ft<sup>2</sup></u>
<u>I</u>	<u>Sand</u>	<u>0.3 – 0.4</u>
	<u>Loamy sand</u>	<u>0.25 – 0.35</u>
<u>II</u>	<u>Sandy loam</u>	<u>0.2 – 0.3</u>
	<u>Loam</u>	<u>0.1 – 0.2</u>
	<u>Silt Loam</u>	<u>0.05 – 0.1</u>

(e) A special site evaluation shall be required in accordance with Rule .0510 of this Subchapter, as applicable.

(f) Drip dispersal installation shall be in accordance with the following criteria:

- (1) dripline shall be installed in accordance with the approved design. The design shall specify installation depth, installation equipment, blanking, drainback prevention, and any other site-specific design requirements identified by the designer;
- (2) dripline shall be installed a minimum of one inch into naturally occurring soil, except when installed in a fill system;
- (3) driplines shall be installed level. A maximum variance of plus or minus two inches shall be allowed within any contiguous section of dripline containing drip emitters;
- (4) a minimum of six inches of cover shall be maintained over the dripline. The six inches of

cover may be met by the addition of up to six inches, after settling, of suitable Group II or III soil over the drip field;

- (5) drip dispersal fields shall be sloped to shed surface water;
- (6) if cover material is required and the slope is greater than 30 percent, a slope stabilization plan shall be provided by a licensed professional if required in G.S. 89C, 89E, or 89F; and
- (7) the drip dispersal system shall be field tested after installation in accordance with Rule .1603 of this Subchapter.

*Authority G.S. 130A-335(e) and (f).*

#### **15A NCAC 18E .0909 FILL SYSTEMS**

(a) Both new and existing fill systems are a system in which all or part of the dispersal field media is installed in fill material. The

system includes both the basal area of dispersal field and the toe slope in all directions.

(b) New fill systems may be installed on sites that meet the following requirements:

- (1) a minimum of the first 18 inches below the naturally occurring soil surface consists of suitable soil with the exception that no SWC exists within the first 12 inches below the naturally occurring soil surface and a groundwater lowering system is not used to meet this requirement;
- (2) systems shall be installed only on sites with uniform slopes less than four percent;
- (3) stormwater diversions, subsurface interceptor drains, or swales shall be required as needed upslope of the system to divert surface runoff or lateral flow from passing over or into the system; and
- (4) the area of suitable soil shall be large enough to include the basal area of dispersal field and the toe slope in all directions.

(c) New fill system design and installation shall be in accordance with the following criteria:

- (1) trenches shall be installed with a minimum of 24 inches separating the infiltrative surface and any LC for gravity distribution and pressure dosed gravity distribution, except for any SWC that requires 18 inches of separation. If pressure dispersal is used, the minimum separation distance shall be 18 inches between the infiltrative surface and any LC and 12 inches to a SWC. This separation requirement may be met with the use of a groundwater lowering system only in Soil Groups I and II with suitable structure;
- (2) fill systems with a DDF greater than 480 gpd shall use pressure dispersal systems;
- (3) fill material soil texture shall be classified as Group I up to the top of the trenches. The final six inches of fill used to cover the system shall have a finer texture, such as Group II or III soils, for the establishment of a vegetative cover;
- (4) minimum cover shall be six inches after settling;
- (5) additional fill may be added to facilitate drainage and accommodate final landscaping requirements at the site necessary to stabilize the fill, shed surface water, and establish a vegetative cover. The additional fill may be provided if the infiltrative surface is less than 30 inches below the finished grade;
- (6) where fill material is added, the fill material and the existing soil shall be mixed to a depth of six inches below the interface. Vegetative cover, organic litter, and the O horizon shall be removed before the additional fill material is incorporated;

(7) the fill system shall be constructed as an elongated berm with the long axis parallel to the ground elevation contours of the slope;

(8) the side slope of the fill system shall not exceed a rise to run ratio of 1:4. If the first 18 inches below the naturally occurring soil surface is Group I soil, the side slope of the fill shall not exceed a rise to run ratio of 1:3;

(9) the outside edge of the trench shall be located a minimum of five feet horizontally from the top of the side slope;

(10) the fill system shall be shaped to shed surface water and shall be stabilized with a vegetative cover;

(11) trench products approved under Section .1700 of this Subchapter shall be installed in accordance with PIA Approval; and

(12) the setback requirements shall be measured from the projected toe of the slope. If this setback cannot be met, the setback requirements shall be measured five feet from the nearest edge of the trench if the following conditions are met:

(A) slope of the site does not exceed two percent;

(B) the first 18 inches of soil beneath the naturally occurring soil surface shall consist of Group I soils; and

(C) the lot or tract of land was recorded on or before December 31, 1989.

(d) An existing pre-July 1, 1977 fill site that does not meet the requirements of Paragraph (b) of this Rule may be utilized for a wastewater system if the following requirements are met:

(1) substantiating data are provided by the lot owner indicating that the fill material was placed on the site prior to July 1, 1977;

(2) the fill material shall have Group I soil texture for a minimum depth of 24 inches below the existing ground surface;

(3) the fill material shall have no more than 10 percent by volume of fibrous organics, building rubble, or other debris, and shall not have discreet layers containing greater than 35 percent of shell fragments;

(4) if a minimum of 24 inches of Group I fill material is present, additional fill with soil texture classified Group I may be added to comply with the separation requirements of Subparagraph (e)(5) of this Rule;

(5) SWC is 18 inches or greater below the ground surface of the fill. This requirement shall be met without the use of a groundwater lowering system; and

(6) the area of suitable soil shall be large enough to include the basal area of dispersal field and the toe slopes in all directions.

(e) Existing fill system design and installation shall be in accordance with Paragraph (c) of this Rule and the following criteria:

- (1) the DDF shall not exceed 480 gpd;
- (2) pressure dispersal shall be used. LPP systems shall meet the requirements of Rule .0907(d) and (e) of this Section. Drip dispersal systems shall meet the requirements of Rule .0908(d) and (f) of this Section;
- (3) the LTAR shall not exceed 0.5 gpd/ft<sup>2</sup>;
- (4) existing fill sites with 48 inches of Group I soils may use conventional trenches with a maximum LTAR of 1.0 gpd/ft<sup>2</sup> in lieu of a pressure dispersal system;
- (5) the minimum vertical separation to any LC shall be 24 inches for pressure dispersal systems and 48 inches for conventional systems. This vertical separation requirement may be met by adding additional Group I soil, but shall not be met with the use of a groundwater lowering system;
- (6) where additional Group I fill is to be added, the side slope of the fill shall not exceed a side slope ratio of 1:3; and
- (7) trench products approved under Section .1700 of this Subchapter shall be installed in accordance with their PIA Approval.

(f) The LTAR for new and existing fill systems shall be determined in accordance with Rule .0901(c) of this Section and the following:

- (1) the LTAR shall be based on the most limiting, naturally occurring soil horizon within 18 inches of the ground surface or to a depth 12 inches below the infiltrative surface, whichever is deeper;
- (2) the lowest LTAR for the applicable Soil Group shall be used for systems installed in accordance with this Rule; and
- (3) for sites with a minimum of 18 inches of Group I soils below the naturally occurring soil surface or to a depth of 12 inches below the infiltrative surface, whichever is deeper, the LTAR shall not exceed 1.0 gpd/ft<sup>2</sup> for gravity or pressure dosed gravity distribution or 0.5 gpd/ft<sup>2</sup> for pressure dispersal systems.

(g) The authorized agent or Department may approve other fill system designs on a site-specific basis in accordance with a PIA Approval or Rule .0509(c) of this Subchapter.

*Authority G.S. 130A-335(e) and (f).*

#### **15A NCAC 18E .0910 ARTIFICIAL DRAINAGE SYSTEMS**

(a) Artificial drainage systems are a site modification and may be proposed to reclassify sites as suitable that were originally classified unsuitable due to a SWC, lateral water movement, saturated soils, a perched water table, or other oxyaquic conditions. Artificial drainage systems include groundwater lowering systems, interceptor drains, and surface water diversions.

(b) Groundwater lowering systems may be used when the following criteria are met:

- (1) the site has Group I or II soils with suitable structure and clay mineralogy; and
- (2) the groundwater lowering system shall be designed to maintain the vertical separation to a SWC as specified in Rule .0901(g)(2) of this Section.

(c) Plans and specifications for the use of a groundwater lowering system to comply with the vertical separation to a SWC shall be prepared by a licensed professional if required in G.S. 89C, 89E, or 89F in accordance with Rule .0303 of this Subchapter. The plans and specifications shall meet the following design criteria:

- (1) Gravity groundwater lowering systems shall be designed in accordance with the following:
  - (A) substantiating information, calculations, and data shall be provided justifying the effectiveness of the proposed drainage system design;
  - (B) design and devices shall comply with accepted standards of practice as set forth in the USDA-NRCS National Engineering Handbook, Part 624 - Drainage, Chapter 10 - Water Table Control, and Part 650 - Engineering Field Handbook, Chapter 14 - Water Management, Drainage;
  - (C) the effectiveness of groundwater lowering systems shall be determined by use of the Ellipse, Hooghoudt, or equivalent drainage equations for sites with Group I or II soils. Justification for use of a specific drainage equation shall be provided;
  - (D) drainage equation input parameters shall be based upon field descriptions of soil profiles and in-situ Ksat measurements. The drainage coefficient used in these equations shall be calculated from the highest monthly rainfall value with a 30-percent exceedance probability from the closest available National Weather Service or SCO. A source of these data is the WETS tables published in the Natural Resource Conservation Service Field Office Technical Guides available online at: [efotg.sc.egov.usda.gov/efotg\\_locator.aspx](http://efotg.sc.egov.usda.gov/efotg_locator.aspx). This monthly value shall be divided by 14 to give the drainage coefficient in inches per day. For systems with a DDF greater than 1,500 gpd, the projected contribution of wastewater application shall be added to the drainage coefficient used in the equations;
  - (E) DRAINMOD shall be used to determine the groundwater lowering system effectiveness at sites with three



- or more effective soil layers, Group III or IV soils within 36 inches of the naturally occurring soil surface, or sites requiring a groundwater lowering system using pumps; and
- (F) the modeling procedure set forth in Rule .0504(h) of this Subchapter shall be followed.
- (2) Groundwater lowering systems using pumps shall be designed in accordance with the following:
- (A) plan and profile detail drawings of pump tank, showing all dimensions, pumps, discharge piping, floats, and float and alarm activation levels;
- (B) calculations and supporting information shall be provided as the basis for sizing the pumps, dose volume, emergency storage capacity, and overall tank capacity;
- (C) the high-water alarm in the control panel shall automatically contact a 24-hour maintenance service;
- (D) information on discharge pipe line, line location, materials, and provisions for erosion control at the discharge point;
- (E) except as otherwise provided in this Paragraph, the requirements of Section .1100 of this Subchapter shall apply to artificial drainage systems using pumps; and
- (F) dual alternating pumps shall be required when serving two or more design units. Each pump shall be sized at a capacity of two and one half times the projected peak inflow rate to the pump tank.
- (3) Plans and specifications for all groundwater lowering systems shall include the following:
- (A) location of existing and proposed drainage systems in relation to all facilities and wastewater system components. Plans shall indicate flow direction, slope and drain outlet location;
- (B) profile drawings showing drainage trench dimensions, depth, pipe size, aggregate envelope, and filter fabric detail, cover, and cleanout detail;
- (C) elevations with reference to an established benchmark;
- (D) specifications for all groundwater lowering system materials and installation procedures;
- (E) the entire groundwater lowering system, including the outlet, shall be on property owned or controlled by the person owning or controlling the system. Necessary legal agreements shall be provided in accordance with Rule .0301(c) of this Subchapter; and easements for egress, ingress, and regress for maintenance of groundwater lowering systems serving two or more lots shall be at least 20 feet wide plus the width of the groundwater lowering system.
- (F)
- (d) Interceptor drains shall be used on sites where a SWC results from laterally flowing groundwater that can be diverted away from the dispersal field.
- (e) Other artificial drainage systems, including surface water diversions, shall comply with USDA-NRCS guidance documents.
- Authority G.S. 130A-335(e) and (f).
- 15A NCAC 18E .0911 PRIVIES**
- (a) A privy shall be approved when it consists of a pit, floor slab, and seat assembly housed in a building that affords privacy and protection from the weather and meets the following criteria:
- (1) the pit shall consist of an excavation with a minimum bottom surface area of three and one half feet square;
- (2) the maximum depth of the pit shall not exceed 36 inches;
- (3) the pit bottom shall not be located closer than 12 inches to a LC;
- (4) the pit shall be curbed to prevent caving. In sandy or loose soil, the curb shall extend the full depth of the pit. In clay soils, partial curbing may be acceptable if soils have sufficient cohesion to not collapse;
- (5) the floor shall be constructed of concrete, wood, or other approved materials. The following criteria shall be met, as applicable:
- (A) for wood construction, rot resistant joists are used covered with tight tongue-and-groove rot resistant flooring;
- (B) wood floors shall be anchored to the sills. The minimum sill size shall be four-inch by four-inch; and
- (C) when other materials are used the material shall be shown to provide strength, durability and prevent entrance of flies and mosquitoes to the privy pit;
- (6) the pit shall be vented through screened PVC Schedule 40 pipe or other pipe approved in accordance with Rule .0703 of this Subchapter, six inches in diameter, and extending above the roofline. The vent pipe shall be:
- (A) located on a south side wall of the building;
- (B) covered to prevent rainfall from entering, but still allow gases to escape;

- (C) straight without any bends in the pipe; and
- (D) black colored pipe; and
- (7) privies shall not be used for the disposal of water-carried sewage.

(b) Any person owning or controlling the property upon which a privy is located shall be responsible for the following requirements:

- (1) when the pit becomes filled to within 18 inches of the top of the ground, the privy building shall be moved to a new pit and the old pit covered with soil; and
- (2) if the pit caves in, a new pit shall be provided.

(c) The person owning or controlling the system shall be responsible for the following requirements:

- (1) the privy and grounds adjacent shall be kept free of debris and excess vegetation;
- (2) a hinged seat cover and hinged door shall be provided and kept closed when the privy is not in use;
- (3) flies shall be excluded from the pit by the privy building door fitting in the frame and no unscreened openings in the building;
- (4) garbage and trash shall be kept out of the pit; and
- (5) the privy building shall not be used for storage.

(d) When a new pit is required, a CA and OP shall be obtained.

*Authority G.S. 130A-335(e) and (f).*

## **SECTION .1000 – NON-GROUND ABSORPTION WASTEWATER TREATMENT SYSTEMS**

### **15A NCAC 18E .1001 ALTERNATIVE TOILETS**

(a) Use of alternative toilets, such as incinerating, composting, and mechanical toilets, and vault privies shall comply with the North Carolina Plumbing Code and this Rule.

(b) Use of chemical or portable toilets is governed by G.S. 130A-335(h).

(c) When an alternative toilet or chemical toilet is used, all wastewater generated in the facility shall be discharged to a wastewater system that is approved under this Subchapter.

(d) Removal of residuals from incinerating toilets, composting toilets, mechanical toilets, vault privies, chemical toilets, or portable toilets shall be performed only by a person that holds a current NC Septage Management Firm permit in accordance with Rule 15A NCAC 13B .0832(a)(1). All waste shall be taken to an approved disposal site per G.S. 130A-291.1(d).

*Authority G.S. 130A-335(e).*

### **15A NCAC 18E .1002 RECLAIMED WATER SYSTEMS**

(a) An RCW system shall be one of the following:

- (1) an alternate management option as identified in 15A NCAC 02U .0401(c) for use with a system permitted in accordance with 15A NCAC 02U;
- (2) a conjunctive wastewater system, as defined in 15A NCAC 02U .0103(4), permitted under the Rules of this Subchapter that:

- (A) incorporates a beneficial use component, such as toilet flushing or landscape irrigation; and
- (B) the beneficial use component is not necessary to meet the wastewater disposal needs of the facility;

- (3) a conjunctive wastewater system permitted under the rules of this Subchapter when there is a non-conjunctive use wastewater system permitted and approved in accordance with 15A NCAC 02H or 15A NCAC 02T for the facility;
- (4) a wastewater system designed for the complete recycle or reuse of DSE; or
- (5) a wastewater system designed to meet the wastewater disposal needs of a facility that serves a beneficial reuse, as defined in 15A NCAC 02U .0103(2), which incorporates a subsurface wastewater dispersal system.

(b) An RCW system shall be designed to produce effluent prior to discharge that complies with the effluent standards for a Type I treatment process in accordance with 15A NCAC 02U .0301(b) or a TS-II system in accordance with Table XXV of Rule .1201(a) of this Subchapter, whichever is more restrictive. The wastewater system shall be approved in accordance with Section .1700 of this Subchapter or designed by a PE and approved by the Department when it has been determined to comply with this Rule.

(c) When utilizing an RCW system, the dispersal field and repair area shall comply with the siting and sizing requirements of Section .1200 of this Subchapter for a TS-II system except as follows:

- (1) setback reductions may be concurrently taken with either of the following:
  - (A) LTAR increase; or
  - (B) vertical separation reduction;
- (2) for systems designed to comply with a TN standard of 10 mg/L one of the following siting and sizing criteria may be utilized:
  - (A) the property line setback may be reduced to five feet and the SA waters setback may be reduced to 50 feet for wastewater systems with a DDF less than or equal to 3,000 gpd;
  - (B) the property line setback may be reduced to 10 feet, the SA waters setback may be reduced to 100 feet, and the other surface waters setback may be reduced to 50 feet for systems with a DDF greater than 3,000 gpd; or
  - (C) the vertical separation to a SWC may be reduced to 12 inches for wastewater systems with a DDF greater than 3,000 gpd that use pressure dispersal;
- (3) the LTAR may be increased up to a factor of four compared to that assigned by the LHD for a system using DSE in Group I soils with a wastewater system that uses pressure dispersal when the following site conditions are met:
  - (A) 48 inches of Group I soils from the naturally occurring soil surface; and

- (B) 30 inches to a SWC below the naturally occurring soil surface; and
- (4) requirements to comply with an effluent TN standard set forth in this paragraph may be waived when a site-specific nitrogen migration analysis based on projected or measured effluent nitrogen levels demonstrates that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L.

(d) Conjunctive uses may include toilet and urinal flushing and landscape irrigation by drip dispersal. Wastewater from a system designed for complete recycling of DSE shall be used only for flushing of toilets and urinals. RCW shall not be used for body contact or human consumption. An RCW system that includes conjunctive use shall meet the following:

- (1) Toilet and urinal flushing components shall be approved by the local building inspections department and be in compliance with the North Carolina Plumbing Code, including pipe marking requirements and back-siphon protection provisions for proximate potable water supplies.
- (2) Siting, sizing, setbacks, and installation requirements of this Subchapter may be modified for the landscape irrigation component if they comply with the requirements for conjunctive use irrigation systems in 15A NCAC 02U, based upon information provided by the licensed professionals, if required in G.S. 89C, 89E, or 89F.
- (3) System design, operation, and management requirements shall comply with requirements for comparable systems in 15A NCAC 02U, including provisions for continuous on-line monitoring and recording for turbidity and a mechanism to prevent effluent utilization if the turbidity exceeds 10 NTUs, if the E. Coli or fecal coliform levels are not being met, or the disinfection unit is not operable.
- (4) Requirements to comply with an effluent TN standard may be waived on a project specific basis when documentation is provided showing that the proposed design will not result in an exceedance of the groundwater standards in accordance with 15A NCAC 02L.

(e) All RCW systems approved in accordance with this rule shall be designed by a PE and the plans approved by the Department prior to LHD permit issuance.

*Authority G.S. 130A-335(e).*

## **SECTION .1100 – SYSTEM DOSING AND CONTROLS**

### **15A NCAC 18E .1101 GENERAL DOSING SYSTEM REQUIREMENTS**

(a) Dosing systems with a single pump or siphon shall be required to be used to deliver effluent into laterals when:

- (1) gravity distribution cannot be achieved between the septic tank and dispersal field;
- (2) the total lateral length exceeds 750 linear feet in a single system; or
- (3) a pressure dosed gravity distribution or pressure dispersal system is used.

(b) Dosing systems with multiple alternating or sequencing pumps or siphons shall be used to discharge to separate dispersal fields when:

- (1) DDF from a single system exceeds 3,000 gpd; or
- (2) the total line length exceeds 2,000 linear feet in a single trench system or 5,000 linear feet in a drip dispersal system.

(c) If alternating pumps or siphons are not required in accordance with Paragraph (b) of this Rule, but used, then the alternating pumps or siphons may discharge to a single dispersal field.

(d) The dose volume to a dispersal field shall be calculated as follows:

- (1) 66 to 75 percent of the volume of the installed linear lateral footage for pressure dosed gravity distribution systems;
- (2) 66 to 75 percent of the volume of the installed linear lateral footage for LDP systems and trench products with a PIA approval based on lateral capacity equivalent to the capacity of a four-inch corrugated pipe;
- (3) LPP systems in accordance with Rule .0907(e)(14)(B) of this Subchapter; and
- (4) drip dispersal systems in accordance with Rule .1602(f)(3) of this Subchapter.

(e) The pump operating flow rate from a dosing system shall be designed to achieve scour velocity in the supply line and to distribute effluent in accordance with the dispersal field design.

(f) The pump operating flow rate or average pump run time shall be within 25 percent of the initial measurements collected during the final inspection.

(g) All dosing systems shall be tested using clean water prior to issuance of an OP. The test shall be conducted by the installer, LSS, authorized designer, and PE, as applicable, witnessed by the LHD, and include a demonstration and documentation of the following:

- (1) pump or siphon operating flow rate and dose volume delivered;
- (2) float control levels;
- (3) high-water alarm, including sound;
- (4) operating pressure head, if applicable; and
- (5) delivery of water to the dispersal field.

*Authority G.S. 130A-335(e), (f), and (f1).*

### **15A NCAC 18E .1102 PUMP DOSING**

(a) The effluent pump shall be:

- (1) capable of handling a minimum of one-half inch solids or be a screened, high head pump designed for effluent;
- (2) designed to meet the pump operating flow rate and total dynamic head specified for the effluent distribution system;

- (3) removable without requiring entrance into the tank; and
- (4) listed by a third-party electrical testing and listing agency, such as Underwriter's Laboratory. A PE may propose a pump model not listed by a third-party electrical testing and listing agency. The Department shall approve the pump when review of documentation provided by the PE demonstrates that the pump model meets the performance requirements for the dispersal field design.

(b) A vent or anti-siphon hole of a 3/16-inch minimum diameter shall be used to prevent air locking of the pump and siphoning from the pump tank when pumping downhill. When a check valve is provided, the anti-siphon hole or vent shall be located between the pump and the check valve. Additional venting may be required at the high point in the pump force main to prevent siphoning.

(c) Each pump discharge line in a pump tank shall have a disconnect device, such as a pressure-rated threaded union, flange, or camlock.

(d) Check valves or other type valves shall prevent drainback from the dispersal field or supply line into the pump tank. A system may be designed and approved for the supply line to drain back to the pump tank based on site-specific considerations, such as freeze protection.

(e) An isolation valve shall be provided on the field side of the disconnect device when pumping uphill.

(f) The pump discharge piping shall be accessible within the tank or riser from finished grade.

(g) Fittings and valves shall be of compatible non-corrodible material. Isolation valves and disconnects shall be located within 18 inches of the top of the access riser opening.

(h) All submersible pumps shall be provided with a non-corrodible rope or chain attached to each pump enabling pump removal from the ground surface without requiring dewatering or entrance into the tank.

*Authority G.S. 130A-335(e), (f), and (f1).*

#### **15A NCAC 18E .1103 CONTROL PANELS**

(a) A control panel shall be provided for all systems that use a pump. The control panel enclosure shall be rated NEMA 4X at a minimum. A third-party electrical testing and listing agency shall list the control panel. The control panel shall include for each pump:

- (1) an independent overload protection, if not integral with the pump motor;
- (2) circuit breaker(s);
- (3) a motor contactor that disconnects all current to the pump or a solid-state relay that controls current to the pump;
- (4) a hand-off-automatic (H-O-A) switch or alternate method to enable manual or automatic pump operation and for the pump to be deactivated manually;
- (5) a pump run light;
- (6) an elapsed time meter; and
- (7) an event counter.

(b) An automatic pump sequencer shall be included in systems requiring multiple pumps in accordance with Rule .1101(b) of this Section and shall remain operable whenever any pump is inoperable.

(c) When telemetry is required in accordance with Sections .0800, .1500, .1600, and .1700 of this Subchapter, the control panel shall be connected to an active phone line, wireless internet router, dedicated cellular line, or another form of telemetry that allows the Management Entity to be notified and respond to alarm conditions. The telemetry shall remain active for the life of the wastewater system.

(d) The control panel bottom shall be mounted a minimum of 24 inches above finished grade, within 50 feet of and in the line of sight of the pump tank. The Management Entity and LHD shall be able to access the control panel and operate the pumps when the owner is not present.

(e) A NEMA 4X junction box shall be installed above grade or adjacent to the pump tank riser when the control panel is located more than 10 feet from the pump tank access riser and one or more electrical splices are used. Electrical splices shall not be used within the conduit piping.

(f) Wiring shall be conveyed to the control panel or outside junction box through waterproof, gasproof, and corrosion-resistant conduits, with no splices or junction boxes inside the tank. Wire and wire conduit openings inside the pump tank and disconnect enclosure shall be sealed.

(g) Dual and multiple fields shall be dosed by separate pumps that shall automatically alternate or sequence. The supply lines shall be "H" connected to permit manual alternation between fields dosed by each pump. "H" connection valving shall be accessible from the ground surface, either from the pump tank access manhole or in a separate valve chamber outside the pump tank. The Department shall approve other methods of dosing dual or multiple fields when the authorized designer or PE provides documentation of equivalent performance to this Paragraph.

(h) Liquid level detection devices, such as floats, shall be provided in the pump tank to control pump cycles and trigger notification of alarm conditions. The liquid level detection device configuration shall meet the following requirements:

- (1) a minimum of 12 inches of effluent shall be maintained in the bottom of the pump tank;
- (2) pump-off level shall be set to keep the pump submerged or in accordance with the manufacturer's written specifications;
- (3) a separate control float shall be provided to activate the high-water alarm;
- (4) the high-water alarm float shall be set to activate within six inches of the pump-on level or higher, if applicable, if providing design equalization capacity in a timed dosing system;
- (5) the lag pump float switch, where provided, shall be located at or above the high-water alarm activation level; and
- (6) floats shall be supported utilizing durable, corrosion resistant material, and designed to be adjustable, removable, and replaceable from the ground surface without requiring dewatering, entrance into the tank, or pump removal.

(i) The pump tank shall have a high-water alarm that shall:

- (1) be audible and visible to the system users and the Management Entity;
  - (2) have a silencer button or silencer device that is located on the outside of the panel enclosure;
  - (3) provide for manual testing;
  - (4) automatically reset after testing and when an alarm condition has cleared;
  - (5) remain operable whenever the pump is inoperable;
  - (6) have an enclosure that is watertight, corrosion resistant, and shall be rated NEMA 4X at a minimum; and
  - (7) be mounted outside the facility and accessible.
- (j) For systems designed, inspected, and certified by a PE, alternative panel construction and location criteria may be used if the alternative panel construction and location criteria meet the panel performance criteria, comply with local electrical codes, and are approved by the local electrical inspector.

*Authority G.S. 130A-335(e), (f), and (f1).*

**15A NCAC 18E .1104 SIPHON DOSING**

Siphons and siphon tanks may be used when a minimum of two feet of elevation drop is maintained between the siphon outlet invert and the inlet invert in the dispersal field distribution system. Siphons and siphon tanks shall meet the following criteria:

- (1) Slope and size of the siphon discharge line shall be sufficient to handle the peak siphon discharge by gravity flow without the discharge line flowing full. Vents for the discharge lines shall be located outside of the siphon tank and shall not serve as an overflow for the tank.
- (2) All siphon parts shall be installed in accordance with the manufacturer's specifications. All materials shall be corrosion-resistant, of cast iron, high-density plastic, fiberglass, stainless steel, or equal as approved by the Department when documentation is provided which shows the materials meet the requirements of this Rule.
- (3) Siphon tanks shall have a functioning trip counter and high-water alarm. The high-water alarm shall be audible and visible by system users and weatherproof if installed outdoors in an enclosure rated as NEMA 4X at a minimum. The high-water alarm shall be set to activate within two inches of the siphon trip level.

*Authority G.S. 130A-335(e), (f), and (f1).*

**15A NCAC 18E .1105 TIMED DOSING**

- (a) Timed dosing systems shall be used with the following:

- (1) when a dosing system is required in accordance with Rule .1101 of this Section in conjunction with an adjusted DDF granted in accordance with Rule .0403 of this Subchapter;
  - (2) flow equalization systems;
  - (3) advanced pretreatment or dispersal systems, if required by the manufacturer; or
  - (4) when specified by the authorized designer.
- (b) The timed dosing system shall be integrated with the pump tank control sensors to ensure that the minimum dose volume calculated in accordance with Rule .1101(d) of this Section is present prior to the start of any scheduled dose event and to provide that a full dose is delivered.
- (c) The float configuration of a flow equalization system using timed dosing shall be adjusted by the LHD, authorized designer, or PE, to provide for equalization capacity in the system.

*Authority G.S. 130A-335(e), (f), and (f1).*

**15A NCAC 18E .1106 PRESSURE DOSED GRAVITY DISTRIBUTION DEVICES**

- (a) Pressure manifolds for pressure dosed gravity distribution shall meet the following minimum design and performance requirements:

- (1) uniform distribution of flow proportional to lateral length with a minimum of two feet of residual pressure head;
- (2) a pressure regulating valve incorporated in the supply line just prior to the pressure manifold to control pressure to the manifold;
- (3) a mechanism or device for measuring residual pressure head in the manifold;
- (4) a mechanism to stop flow to individual laterals;
- (5) a method to visually verify the flow to each individual lateral;
- (6) the feeder lines from the pressure manifold shall be of sufficient size and slope for effluent to flow by gravity to each lateral; and
- (7) the pressure manifold and appurtenances shall be designed and installed to be accessible for inspection, operation, maintenance, and monitoring.

- (b) A distribution box or a drop box may be used to dissipate or distribute flow in a pressure dosed gravity dispersal system for parallel, serial, or sequential distribution. Such devices shall be watertight, corrosion resistant, constructed to withstand active and passive loads, and the volume of the device shall be such that when the dose volume is delivered, the box shall not overflow. The authorized agent shall approve the distribution device when it has been determined to be in accordance with Rule .0901(g)(9) through (11) of this Subchapter.

*Authority G.S. 130A-335(e), (f), and (f1).*

**SECTION .1200 – ADVANCED PRETREATMENT SYSTEMS STANDARDS, SITING, AND SIZING CRITERIA**

**15A NCAC 18E .1201 ADVANCED PRETREATMENT SYSTEM STANDARDS**

- (a) Advanced pretreatment systems with a DDF less than or equal to 3,000 gpd shall meet the following conditions:
- (1) have an RWTS or PIA Approval;

- (2) be designed to comply with the effluent standard specified in the OP and defined in Table XXV prior to effluent dispersal to the soil;
- (3) comply with the siting and sizing requirements of this Section; and
- (4) comply with Rules .1302(f) and .1710 of this Subchapter.

**TABLE XXV. Effluent standards for advanced pretreatment systems**

<u>Constituent</u>	<u>Effluent Standards</u>		
	<u>NSF-40</u>	<u>TS-I</u>	<u>TS-II</u>
<u>CBOD</u>	$\leq 25$ mg/L	$\leq 15$ mg/L	$\leq 10$ mg/L
<u>TSS</u>	$\leq 30$ mg/L	$\leq 15$ mg/L	$\leq 10$ mg/L
<u>NH<sub>3</sub></u>		$\leq 10$ mg/L or 80% removal of NH <sub>3</sub> if influent TKN exceeds 50 mg/L	$\leq 10$ mg/L
<u>TN</u>			$\leq 20$ mg/L
<u>Fecal Coliform</u>		$\leq 10,000$ colonies/100 mL	$\leq 1,000$ colonies/100 mL

(b) The effluent applied to advanced pretreatment systems shall not exceed DSE as specified in Table III of Rule .0402(a) of this Subchapter, unless the system is designed to treat HSE and approved by the Department on a product or project-specific basis in accordance with the rules of this Subchapter and engineering practices.

Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343.

**15A NCAC 18E .1202 SITING AND SIZING CRITERIA FOR ADVANCED PRETREATMENT SYSTEMS WITH A DESIGN DAILY FLOW LESS THAN OR EQUAL TO 1,500 GALLONS/DAY**

(a) Wastewater systems utilizing advanced pretreatment with a DDF less than or equal to 1,500 gpd may only use one of the following modifications to system siting and sizing criteria, unless otherwise identified in this Rule:

- (1) reduction in depth to LC or vertical separation to LC in accordance with Paragraph (b) of this Rule;
- (2) LTAR increase in accordance with Paragraph (c) of this Rule; or
- (3) setback reductions in accordance with Paragraph (d) of this Rule.

(b) The minimum required vertical separation to a LC in natural soil may be reduced with the use of advanced pretreatment in accordance with Table XXVI. Table XXVII provides the minimum depths and vertical separation for new and existing fill. A special site evaluation shall be submitted and approved in accordance with Rule .0510 of this Subchapter when a reduction in vertical separation to a LC is proposed in accordance with this Rule.

**Table XXVI. Minimum vertical separation to LC based on effluent standards for wastewater systems with a DDF less than or equal to 1,500 gpd**

<u>Minimum vertical separation in inches from infiltrative surface to LC</u>					
<u>Soil Group</u>	<u>Distribution Method</u>	<u>Effluent Standard**</u>			
		<u>DSE*</u>	<u>NSF-40</u>	<u>TS-I</u>	<u>TS-II</u>
<u>I</u>	<u>Gravity</u>	<u>18</u>	<u>12</u>	<u>12</u>	<u>12</u>
	<u>LPP</u>	<u>12</u>	<u>12</u>	<u>9</u>	<u>6</u>
	<u>Drip</u>	<u>12</u>	<u>12</u>	<u>9</u>	<u>6</u>
<u>II-IV</u>	<u>Gravity</u>	<u>12</u>	<u>12</u>	<u>9</u>	<u>9</u>
	<u>LPP</u>	<u>12</u>	<u>12</u>	<u>9</u>	<u>6</u>
	<u>Drip</u>	<u>12</u>	<u>12</u>	<u>9</u>	<u>6</u>

\*For comparison

\*\*12-inch vertical separation shall always be maintained to rock or tidal water

**Table XXVII. Minimum depth to LC and vertical separation to SWC in new or existing fill based on effluent standards for wastewater systems with a DDF less than or equal to 1,500 gpd for new fill and less than or equal to 480 gpd for existing fill**

<u>Minimum depth in inches from naturally occurring soil surface to LC</u>					
<u>Type of Fill</u>	<u>Distribution Method</u>	<u>Effluent Standard</u>			
		<u>DSE**</u>	<u>NSF-40</u>	<u>TS-I</u>	<u>TS-II</u>
<u>New Fill</u>	<u>Gravity</u>	<u>18 to LC</u>	<u>18 to LC</u>	<u>14 to LC</u>	<u>14 to LC</u>
		<u>12 to SWC</u>	<u>12 to SWC</u>	<u>12 to SWC</u>	<u>12 to SWC</u>
	<u>LPP</u>	<u>18 to LC</u>	<u>18 to LC</u>	<u>12</u>	<u>12</u>
		<u>12 to SWC</u>	<u>12 to SWC</u>		

	<u>Drip</u>	<u>18 to LC</u> <u>12 to SWC</u>	<u>18 to LC</u> <u>12 to SWC</u>	<u>12</u>	<u>12</u>
<u>Existing Fill</u>	<u>Gravity</u>	<u>36 of Group I Fill or Soil</u>			
	<u>LPP</u>	<u>24 of Group I Fill or Soil</u>			
	<u>Drip</u>	<u>24 of Group I Fill or Soil</u>			
<u>Minimum vertical separation in inches from infiltrative surface to LC*</u>					
<u>Type of Fill</u>	<u>Distribution Method</u>	<u>Effluent Standard</u>			
		<u>DSE**</u>	<u>NSF-40</u>	<u>TS-I</u>	<u>TS-II</u>
<u>New Fill</u>	<u>Gravity</u>	<u>24 to LC</u> <u>18 to SWC</u>	<u>18 to LC</u> <u>18 to SWC</u>	<u>18 to LC</u> <u>14 to SWC</u>	<u>18 to LC</u> <u>14 to SWC</u>
	<u>LPP</u>	<u>18 to LC</u> <u>12 to SWC</u>	<u>18 to LC</u> <u>12 to SWC</u>	<u>12 to LC</u> <u>9 to SWC</u>	<u>12 to LC</u> <u>9 to SWC</u>
	<u>Drip</u>	<u>18 to LC</u> <u>12 to SWC</u>	<u>18 to LC</u> <u>12 to SWC</u>	<u>12 to LC</u> <u>9 to SWC</u>	<u>12 to LC</u> <u>9 to SWC</u>
<u>Existing Fill</u>	<u>Gravity</u>	<u>36</u>	<u>36</u>	<u>36</u>	<u>36</u>
	<u>LPP</u>	<u>18</u>	<u>18</u>	<u>12</u>	<u>12</u>
	<u>Drip</u>	<u>18</u>	<u>18</u>	<u>12</u>	<u>12</u>

\*Minimum depth after adjustment for slope correction

\*\*For comparison

(c) The LTAR shall be based on the effluent standard and dispersal field type proposed in accordance with the following:

- (1) The LTAR may be increased by the following factors when compared to the rate assigned by the authorized agent for a new system using DSE:
  - (A) up to 1.33 for NSF-40 effluent standards in soils which are Group I or II with suitable structure;
  - (B) up to 2.0 for TS-I or TS-II effluent standards when pressure dispersal is utilized; or
  - (C) up to 2.5 for TS-II effluent standards when all the following conditions are met: minimum of 36 inches of Group I soils from the naturally occurring soil surface; minimum depth to a SWC below the naturally occurring soil surface is 24 inches; space shall be available for an equivalently sized dispersal field repair area; and pressure dispersal shall be utilized.
- (2) A special site evaluation, if required in accordance with Rule .0510 of this Subchapter, shall be submitted and approved.
- (3) The LTAR for an aerobic drip system shall be determined in accordance with Rule .1204 of this Section.
- (4) Trench dispersal products approved for a specific dispersal field reduction in area or trench length when receiving DSE in accordance with this Subchapter or a PIA Approval shall not be reduced by more than 50 percent when any LTAR adjustments are taken in accordance with this Rule.
- (5) The DDF shall not be increased by the addition of advanced pretreatment to an existing wastewater system by more than 33 and one-third percent on a site without repair area or by more than 50 percent on a site with 100 percent repair area.

(d) Advanced pretreatment systems shall meet the following setback requirements:

- (1) minimum setback requirements of Section .0600 of this Subchapter shall be met, except as shown in Table XXVIII; and
- (2) when any other siting or sizing modifications are applied, such as reduced depth to LC, vertical separation, or increased LTAR, for a TS-I or TS-II system in accordance with Paragraphs (b) and (c) of this Rule, no setback reductions shall be taken except those to artificial drainage systems described in Table XXVIII.

**Table XXVIII:** Setbacks for wastewater systems meeting NSF-40, TS-I, or TS-II effluent standards

<b><u>Site Features</u></b>	<b><u>Setback in feet according to Effluent Standard**</u></b>			
	<b><u>DSE*</u></b>	<b><u>NSF-40</u></b>	<b><u>TS-I</u></b>	<b><u>TS-II</u></b>
Surface waters classified WS-I, from ordinary high-water mark	<u>100</u>	<u>70</u>	<u>70</u>	<u>50</u>
Waters classified SA, from mean high-water mark	<u>100</u>	<u>70</u>	<u>70</u>	<u>50</u>
Any Class I or Class II reservoir, from normal water level	<u>100</u>	<u>70</u>	<u>70</u>	<u>50</u>

<u>Any other stream, non-water supply spring, or other surface water, from the ordinary high-water mark</u>	<u>50</u>	<u>35</u>	<u>35</u>	<u>25</u>
<u>Tidal influenced waters, such as marshes and coastal water, from mean high-water mark</u>	<u>50</u>	<u>35</u>	<u>35</u>	<u>25</u>
<u>Lake or pond, from normal water level</u>	<u>50</u>	<u>35</u>	<u>35</u>	<u>25</u>
<u>Groundwater lowering system, as measured on the ground surface from the edge of the feature</u>	<u>25</u>	<u>25</u>	<u>20</u>	<u>15</u>
<u>Downslope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature</u>	<u>15</u>	<u>15</u>	<u>10</u>	<u>10</u>
<u>Upslope and side slope interceptor drains and surface water diversions with a vertical cut of more than two feet, as measured on the ground surface from the edge of the feature</u>	<u>10</u>	<u>10</u>	<u>7</u>	<u>7</u>
<u>A stormwater collection system as defined in 15A NCAC 02H .1002(48), excluding gutter drains that connect to a stormwater collection system, with a vertical cut of more than two feet as measured from the center of the collection system</u>	<u>10</u>	<u>10</u>	<u>7</u>	<u>7</u>
<u>Permanent stormwater retention basin, from normal water level</u>	<u>50</u>	<u>50</u>	<u>35</u>	<u>25</u>
<u>Any other dispersal field, except designated dispersal field repair area for project site</u>	<u>20</u>	<u>20</u>	<u>10</u>	<u>10</u>

\*For comparison

\*\*May require a variance from DEQ based on local buffer rules.

Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343.

**15A NCAC 18E .1203 SITING AND SIZING CRITERIA FOR ADVANCED PRETREATMENT SYSTEMS WITH A DESIGN DAILY FLOW GREATER THAN 1,500 GALLONS/DAY AND LESS THAN OR EQUAL TO 3,000 GALLONS/DAY**

(a) Wastewater systems utilizing advanced pretreatment with a DDF greater than 1,500 gpd and less than or equal to 3,000 gpd may use utilize the system siting and sizing in this Rule.

(b) The LTAR shall be based on the effluent standard and dispersal field type proposed in accordance with the following:

- (1) The LTAR may be increased by the following factors when compared to the rate assigned by the authorized agent for a new system using DSE:
  - (A) up to 2.0 for TS-I or TS-II effluent standards; or
  - (B) up to 2.5 for TS-II effluent standards when there is a minimum of 48 inches of Group I soils from the naturally occurring soil surface and a minimum of 30 inches to a SWC below the naturally occurring soil surface.
- (2) The LTAR for an aerobic drip system shall be determined in accordance with Rule .1204 of this Section.

(c) When the LTAR for a system is proposed to be increased in accordance with Paragraph (b) of this Rule, the following conditions shall be met:

- (1) a special site evaluation required in accordance with Rule .0510 of this Subchapter shall be submitted and approved;
- (2) pressure dispersal shall be utilized;
- (3) space shall be available for an equivalently sized dispersal field repair area; and

- (4) 25-foot setback shall be maintained to all property lines unless a site-specific nitrogen migration analysis for a TS-I system indicates that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L or a TS-II system is used.

(d) Trench dispersal products approved for a specific dispersal field reduction in area or trench length when receiving DSE in accordance with this Subchapter or a PIA Approval shall not be reduced by more than 50 percent as a result of increased LTAR in accordance with this Rule.

(e) The DDF shall not be increased by the addition of advanced pretreatment to an existing wastewater system.

Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343.

**15A NCAC 18E .1204 ADVANCED PRETREATMENT DRIP DISPERSAL SYSTEMS**

(a) This Rule provides for the permitting of drip dispersal systems receiving advanced pretreatment effluent with a DDF less than or equal to 3,000 gpd. Drip dispersal systems shall comply with the provisions of this Rule and Section .1600 of this Subchapter.

(b) Drip dispersal systems with a DDF less than or equal to 1,500 gpd shall utilize the siting and sizing criteria in this Paragraph when used with advanced pretreatment.

- (1) The soil and site characteristics shall meet the following criteria based on effluent standards:

(A) NSF-40 Systems

- (i) a minimum of 18 inches of naturally occurring suitable soil above a LC and 13 inches of naturally occurring suitable soil above a SWC, and the minimum vertical



- (ii) separation to any LC shall be 12 inches;
- (ii) for new fill, the requirements of Rules .0909(b) and (c) of this Subchapter shall be met, except there shall be a minimum of 18 inches of naturally occurring suitable soil above a LC and a minimum of 12 inches of naturally occurring suitable soil above a SWC, and the minimum vertical separation shall be 18 inches to a LC and 12 inches to a SWC; or
- (iii) for existing fill, the requirements of Rules .0909(d) and (e) of this Subchapter shall be met, except that the minimum vertical separation to any LC shall be 18 inches;
- (B) TS-I Systems
- (i) a minimum of 15 inches of naturally occurring suitable soil above a LC and a minimum of 13 inches of naturally occurring suitable soil above a SWC, and the minimum vertical separation to any LC shall be nine inches;
- (ii) for new fill, the requirements of Rules .0909(b) and (c) of this Subchapter shall be met, except there shall be a minimum of 12 inches of naturally occurring suitable soil above a LC, a minimum of nine inches vertical separation to a SWC, and a minimum of 12 inches vertical separation to a LC; or
- (iii) for existing fill, the requirements of Rules .0909(d) and (e) of this Subchapter shall be met, except that the minimum vertical separation to any LC shall be 12 inches; or
- (C) TS-II Systems
- (i) a minimum of 13 inches of naturally occurring suitable soil above a LC and the minimum vertical separation to any LC shall be six inches;
- (ii) for new fill, the requirements of Subpart (B)(ii) of this Paragraph shall be met; or
- (iii) for existing fill, the requirements of Subpart (B)(iii) of this Paragraph shall be met.
- (2) Site modifications for advanced pretreatment drip dispersal systems shall meet the following criteria based on effluent standards:
- (A) NSF-40 Systems may utilize a groundwater lowering system to comply with the vertical separation requirements to a SWC only when Group I or II soils with suitable structure are present within 36 inches of the naturally occurring soil surface. The minimum vertical separation to the projected, or drained, SWC shall be 12 inches. The addition of fill material shall not be used to comply with this requirement; and
- (B) TS-I and TS-II Systems may utilize a groundwater lowering system to comply with the vertical separation requirements to a SWC. The minimum vertical separation to the projected, or drained, SWC shall be 12 inches. The groundwater lowering system may be used with the following: Group III soils are present at any depth above the invert elevation of the highest point of the artificial drainage system or within 36 inches of the naturally occurring soil surface, whichever is deeper; or on new fill sites.
- (3) Table XXVIX shall be used to determine the LTAR for advanced pretreatment drip dispersal systems based on Soil Group. Limitations in adjustment allowances for NSF-40, TS-I, and TS-II systems are listed in Parts (E), (F), and (G) of this Subparagraph.

**TABLE XXVIX. LTAR for advanced pretreatment drip dispersal systems based on Soil Group**

<b>Soil Group</b>	<b>USDA Soil Textural Class</b>		<b>LTAR in gpd/ft<sup>2</sup></b>		
			<b>NSF-40</b>	<b>TS-I</b>	<b>TS-II</b>
<b>I</b>	<b>Sands</b>	<b>Sand</b>	0.6 – 1.0	0.8 – 1.2	0.8 – 1.5
		<b>Loamy Sand</b>			
<b>II</b>	<b>Coarse Loams</b>	<b>Sandy Loam</b>	0.4 – 0.6	0.5 – 0.8	0.6 – 0.8
		<b>Loam</b>			
<b>III</b>	<b>Fine Loams</b>	<b>Sandy Clay Loam</b>	0.15 – 0.4	0.2 – 0.6	0.2 – 0.6
		<b>Silt Loam</b>			
		<b>Clay Loam</b>			

IV	Clays	Silty Clay	0.05 – 0.2	0.05 – 0.2	0.05 – 0.2
		Loam			
		Silt			
		Sandy Clay			
		Silty Clay			
		Clay			

- (A) The LTAR shall be based on the most limiting, naturally occurring soil horizon within 18 inches of the naturally occurring soil surface or to a depth of 12 inches below the infiltrative surface.
- (B) The DDF shall be divided by the LTAR, determined from Table XXVIX or XXX, to calculate the minimum dispersal field area required. The minimum dripline length shall be calculated by dividing the required area by the maximum line spacing of two feet. The following equations shall be used to calculate the minimum dispersal field area and dripline length required:
- $$\text{MA} = \text{DDF} \div \text{LTAR}$$

$$\text{DL} = \text{MA} \div \text{LS}$$
- Where  $\text{MA} =$  minimum dispersal field area, in ft<sup>2</sup>
- $\text{DDF} =$  design daily flow, in gpd
- $\text{LTAR} =$  in gpd/ft<sup>2</sup>
- $\text{DL} =$  dripline length, in feet
- $\text{LS} =$  two-foot line spacing
- (C) The minimum dripline length calculated in Part (B) of this Subparagraph shall not be less than 0.5 x DDF for Group I soils, 0.83 x DDF for Group II soils, 1.25 x DDF for Group III soils, or 3.33 x DDF for Group IV soils. The dripline spacing may be adjusted in accordance with Rule .1602(e)(3) of this Subchapter and the PIA Approval so that the minimum required dispersal field area calculated in Part (B) of this Subparagraph does not need to be increased.
- (D) Sections of blank tubing without emitters required to comply with site-specific conditions shall not count towards the minimum length of dripline needed when laying out the

- system or when calculating the linear footage of dripline needed.
- (E) LTAR adjustment limitations for NSF-40 Systems
- (i) the LTAR for new fill shall not exceed 0.6 gpd/ft<sup>2</sup> for Group I soils, 0.4 gpd/ft<sup>2</sup> for Group II soils, 0.15 gpd/ft<sup>2</sup> for Group III soils, or 0.05 gpd/ft<sup>2</sup> for Group IV soils; and
- (ii) the LTAR for existing fill shall not exceed 0.8 gpd/ft<sup>2</sup>.
- (F) LTAR adjustment limitations for TS-I Systems
- (i) the LTAR for new fill shall not exceed 1.0 gpd/ft<sup>2</sup> for Group I soils, 0.5 gpd/ft<sup>2</sup> for Group II soils, 0.2 gpd/ft<sup>2</sup> for Group III soils, or 0.07 gpd/ft<sup>2</sup> for Group IV soils;
- (ii) the LTAR for existing fill shall not exceed 1.0 gpd/ft<sup>2</sup>; and
- (iii) the LTAR for sites with less than 18 inches of naturally occurring soil to any unsuitable LC shall not exceed the lowest LTAR for Soil Groups I, II, and III, and 0.1 gpd/ft<sup>2</sup> for Group IV soils.
- (G) LTAR adjustment limitations for TS-II Systems
- (i) the LTAR for new fill shall not exceed 1.0 gpd/ft<sup>2</sup> for Group I soils, 0.6 gpd/ft<sup>2</sup> for Group II soils, 0.2 gpd/ft<sup>2</sup> for Group III soils, or 0.07 gpd/ft<sup>2</sup> for Group IV soils;
- (ii) the LTAR for existing fill shall not exceed 1.0 gpd/ft<sup>2</sup>; and
- (iii) the LTAR for sites with less than 18 inches of naturally occurring soil to any unsuitable LC shall not exceed the lowest LTAR for Soil Groups I, II, and III, and 0.1 gpd/ft<sup>2</sup> for Group IV soils.
- (4) Table XXX shall be used in determining the LTAR for advanced pretreatment drip dispersal systems installed in saprolite. The LTAR shall be based on the most limiting, naturally occurring saprolite to a depth of 24 inches below the infiltrative surface.

**TABLE XXX. LTAR for advanced pretreatment drip dispersal systems based on Saprolite Group**

<u>Saprolite Group</u>	<u>Saprolite Textural Class</u>	<u>LTAR, area basis, in gpd/ft<sup>2</sup></u>	
		<u>NSF-40</u>	<u>TS-I and TS-II</u>
<u>I</u>	<u>Sand</u>	<u>0.4 – 0.5</u>	<u>0.4 – 0.6</u>
	<u>Loamy sand</u>	<u>0.3 – 0.4</u>	<u>0.3 – 0.5</u>
<u>II</u>	<u>Sandy loam</u>	<u>0.25 – 0.35</u>	<u>0.25 – 0.4</u>
	<u>Loam</u>	<u>0.2 – 0.25</u>	<u>0.2 – 0.3</u>
	<u>Silt loam</u>	<u>0.05 – 0.1</u>	<u>0.05 – 0.15</u>
<u>III</u>	<u>Sandy clay loam</u>	<u>0.05 – 0.1</u>	<u>0.05 – 0.15</u>

(5) A special site evaluation shall be required in accordance with Rule .0510 of this Subchapter, as applicable.

(6) Setbacks allowed in Table XXVIII of Rule .1202(d) of this Section may be used with advanced pretreatment drip dispersal systems when no reduction in the depth to a LC or vertical separation reduction is proposed compared to the requirements for DSE in Table XXVI or Table XXVII of Rule .1202(b) of this Section. A minimum of 18 inches of naturally occurring soil to an unsuitable LC shall be required to take setback reductions. The following LTAR limitations shall be applicable:

(A) for NSF-40 and TS-I systems, with the exception of the setback reductions to artificial drainage systems, when reductions are taken in setbacks, the LTAR shall not exceed the lowest LTAR for Soil Groups I, II, and III, and 0.1 gpd/ft<sup>2</sup> for Group IV soil;

(B) for TS-II Systems, with the exception of setback reductions to artificial drainage systems, when reductions are taken in setbacks, the LTAR shall not exceed the mid-range LTAR for Soil Groups I, II, and III, and 0.1 gpd/ft<sup>2</sup> for Group IV soils; and

(C) for NSF-40, TS-I, and TS-II Systems, Table XXIX may be used to determine the LTAR when no other setback reductions are taken aside of those to artificial drainage systems.

(c) Drip dispersal systems with a DDF greater than 1,500 gpd and less than or equal to 3,000 gpd used with advanced pretreatment may propose an adjusted LTAR if the following criteria are met:

(1) no reduction in the depth to a LC, vertical separation, or setback reduction is proposed;

(2) proposed LTAR is supported by a special site evaluation in accordance with Rule .0510 of this Subchapter; and

(3) 25-foot setback shall be maintained to all property lines, unless one of the following criteria is met:

(A) site-specific nitrogen migration analysis for a TS-I system indicates that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L; or

(B) TS-II system is used.

(d) Drip dispersal installation shall be in accordance with Rule .0908(f) of this Subchapter.

*Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343.*

**15A NCAC 18E .1205 ADVANCED PRETREATMENT SAND LINED TRENCH SYSTEMS**

(a) Sand lined trench systems with a DDF less than or equal to 1,500 gpd receiving TS-I or TS-II effluent shall meet the requirements of this Rule.

(b) The site meets the criteria in Rule .0906(c) of this Subchapter and the receiving permeable horizon may be deeper than 60 inches below the natural grade.

(c) If a groundwater lowering system is used to comply with the vertical separation to a SWC, the following conditions shall apply:

(1) the site shall comply with the requirements of Rule .0906(d) of this Subchapter; and

(2) the vertical separation requirement to a SWC shall be reduced to nine inches with pressure dosed gravity distribution or six inches with pressure dispersal.

(d) Table XXXI shall be used to determine the LTAR for a sand-lined trench system and shall be based on the most limiting, naturally occurring soils overlying the permeable receiving layer. An equivalent trench width of three feet shall be used to determine trench length in accordance with Rule .0901(d) of this Subchapter. The LTAR shall be one of the following:

(1) the rate set forth in Table XXXI; or

(2) 20 percent of the in-situ Ksat of the receiving permeable horizon, whichever is less.

**TABLE XXXI. LTAR for advanced pretreatment sand lined systems based on texture of the most hydraulically limiting overlying soil horizon**

<u>Soil Group</u>	<u>Texture of Most Hydraulically Limiting Overlying Soil Horizon</u>	<u>LTAR in gpd/ft<sup>2</sup>*</u>
<u>I</u>	<u>Sand</u>	<u>0.9 – 1.4</u>

<u>II</u>	<u>Coarse Loams</u>	<u>0.7 – 1.0</u>
<u>III</u>	<u>Fine Loams</u>	<u>0.4 – 0.8</u>
<u>IV</u>	<u>Clays</u>	<u>0.2 – 0.4</u>

\*There shall be no reduction in trench length compared to a conventional gravel trench when Accepted or Innovative gravelless trench product is used.

(e) A Special Site Evaluation in accordance with Rule .0510 of this Subchapter shall be required for the following conditions to field verify the LTAR:

- (1) when the texture of the receiving permeable horizon is sandy loam or loam, and the system DDF is greater than 600 gpd; or
- (2) when the texture of the receiving permeable horizon is silt loam.

(f) Setbacks in accordance with Table XXVIII of Rule .1202(d) of this Section shall be applied to sand lined trench systems.

(g) Sand lined trench system installation shall be in accordance with Rule .0906(h) of this Subchapter.

*Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343.*

**15A NCAC 18E .1206 ADVANCED PRETREATMENT BED SYSTEMS**

(a) This Rule shall apply to bed systems receiving advanced pretreatment.

(b) Bed systems receiving NSF-40 effluent, or better, on sites with a DDF less than or equal to 600 gpd shall meet the following requirements:

- (1) the soil and site shall meet the following criteria:
  - (A) the vertical separation requirements of Rule .0901(g)(2) of this Subchapter;
  - (B) soil texture is Group I, II, or III; and
  - (C) design options for the site are limited by topography or available space;
- (2) Table XVII in Rule .0901(c) of this Subchapter shall be used to determine the LTAR for a bed system. On sites where the soil texture is Group I or II, the initial LTAR shall be increased by a factor of 1.125 with no further reduction in bed size allowed;
- (3) setbacks allowed in Table XXVIII of Rule .1202(d) of this Section shall be used; and
- (4) bed system installation shall be in accordance with Rule .0903(e) of this Subchapter.

(c) Bed systems receiving TS-I or TS-II effluent on sites with a DDF less than or equal to 1,500 gpd shall meet the following requirements:

- (1) The soil and site meet the following criteria:
  - (A) there is a minimum of 30 inches of suitable Group I or II soils below the naturally occurring soil surface and no SWC within the first 36 inches below the naturally occurring soil surface or 36 inches of Group I soils below the naturally occurring soil surface and no SWC exists within the first 12 inches below the naturally occurring soil surface;

(B) the requirement for 30 inches of Group I or II soils or 36 inches of Group I soils in Part (A) of this Subparagraph may be reduced to 18 inches when a special site evaluation in accordance with Rule .0510 of this Subchapter is provided;

(C) sites shall have a uniform slope not exceeding two percent, unless a special site evaluation submitted and approved in accordance with Rule .0510 of this Subchapter is provided; and

(D) the bed system shall be considered to be a fill system if the infiltrative surface is installed less than six inches below the naturally occurring soil surface. For bed systems in fill, the requirements of Paragraph (e) of this Rule shall also be met.

(2) Table XVII in Rule .0901(c) of this Subchapter shall be used to determine the initial LTAR for a bed system and shall be based on the most limiting, naturally occurring soil horizon within 36 inches of the naturally occurring soil surface or to a depth of 12 inches below the bed bottom, whichever is deeper. The minimum bed size shall be determined in accordance with the following:

(A) the minimum amount of bottom area square feet shall be determined by dividing the DDF by the LTAR;

(B) when the bed is a fill system, the lowest LTAR for the applicable Soil Group shall be used. The LTAR shall not exceed 1.0 gpd/ft<sup>2</sup>;

(C) fill shall not be added to the naturally occurring soil surface in order to increase the LTAR of a bed system;

(D) the minimum bed size shall be reduced by up to 25 percent when the system is designed to comply with TS-I or TS-II effluent and is not installed in existing fill; and

(E) the minimum bed size may be reduced by up to 40 percent when the following criteria are met: the system is designed to comply with TS-II effluent; Group I Soil is present in the first 36 inches of naturally occurring soil; no SWC exists within the first 30 inches below the naturally occurring soil surface or within 24 inches of the

- bed bottom; the bed or beds are not located beneath the advanced pretreatment components, and pressure dispersal is used; effluent is distributed to the beds by a pump and timer control system designed to distribute flow evenly over a 24-hour period; and there is 100 percent dispersal field repair area.
- (3) A special site evaluation shall be submitted and approved in accordance with Rule .0510 of this Subchapter when the vertical separation to a LC is reduced and on sites with slopes greater than two percent.
- (4) Setbacks as set forth in Table XXVIII of Rule .1202(d) of this Section shall apply as follows:
- (A) the setbacks shall be measured from the nearest edge of the bed;
- (B) for bed systems using fill, the setbacks shall be measured from a point five feet from the nearest edge of the bed sidewall, or from the projected toe of the slope that is required to comply with the soil and site limitations, whichever is greater;
- (C) the minimum separation between initial and repair dispersal field areas serving a single system and facility shall be two feet of naturally occurring soil. Ten feet of naturally occurring soils shall separate the initial and repair dispersal field areas serving separate facilities when these bed systems are on a common site or tract of land; and
- (D) whenever the bed size is reduced in accordance with this Rule, only reduced setbacks to artificial drainage systems in accordance with Table XXVIII of Rule .1202(d) of this Section shall be allowed.
- (5) Bed system installation shall be in accordance with Rule .0903(e) of this Subchapter and the following:
- (A) pressure dispersal shall be used whenever effluent is distributed to a bed not located beneath the advanced pretreatment component; and
- (B) when new fill is required for the installation of a bed system, suitable Group I fill material shall be used to comply with the vertical separation requirements from the bed bottom to a LC, when all of the following conditions are met: a groundwater lowering system is not used to comply with the vertical separation requirements; new fill material is sand or loamy sand, containing not more than 10 percent by volume fibrous organics, building rubble, or other debris and does not have discreet layers containing greater than 35 percent of shell fragments by volume; and the requirements of Rule .0909(c)(8) of this Subchapter, for the projected side slope of the fill are met, as determined beginning at a point six inches above the top edge of the bed.
- (d) Bed systems receiving TS-I or TS-II effluent on sites with a DDF greater than 1,500 gpd and less than or equal to 3,000 gpd shall meet the following requirements:
- (1) The soil and site shall meet the minimum following criteria:
- (A) Group I soils are present for 54 inches below the naturally occurring soil surface;
- (B) no SWC exists within the first 48 inches below the naturally occurring soil surface; and
- (C) vertical separation of 24 inches to any SWC is maintained below the bed bottom, unless a site-specific groundwater mounding analysis is performed and demonstrates a 12-inch separation or 18-inch minimum for a fill system in accordance with Rule .0909(c) of this Subchapter shall be maintained.
- (2) Table XVII in Rule .0901(c) of this Subchapter shall be used to determine the initial LTAR for a bed system and shall be based on the most limiting, naturally occurring soil horizon within 36 inches of the naturally occurring soil surface or to a depth of 12 inches below the bed bottom, whichever is deeper. The minimum bed size shall be determined in accordance with the following:
- (A) the minimum number of square feet of bed bottom area shall be calculated by dividing the DDF by the LTAR;
- (B) the minimum bed size shall be reduced by up to 25 percent when the system is designed and approved to comply with TS-I or TS-II effluent standards and will be installed in naturally occurring soil; and
- (C) the minimum bed size may be reduced by up to 40 percent when all of the following criteria are met: the system is designed and approved to comply with TS-II effluent standards; the hydraulic assessment demonstrates that a 24-inch minimum vertical separation to a SWC is maintained after accounting for projected groundwater mounding; and there is 100 percent dispersal field repair area.

- (3) A special site evaluation shall be submitted and approved in accordance with Rule .0510 of this Subchapter.
- (4) No setback reductions shall be allowed in accordance with Table XXVIII of Rule .1202(d) of this Section. The following horizontal setbacks shall be met:
- (A) the minimum setback between initial and repair dispersal field areas serving a single system and facility shall be two feet of naturally occurring soil. Ten feet of naturally occurring soil shall separate the initial and repair dispersal field areas serving separate facilities when these bed systems are on a common site or tract of land;
- (B) when two beds are used, the minimum separation between two beds shall be 20 feet. When three or more beds are used, the minimum separation between beds shall be 10 feet; and
- (C) a 25-foot setback shall be maintained from edge of the bed to the property line unless a site-specific nitrogen migration analysis indicates that the nitrate-nitrogen concentration at the property line will not exceed 10 mg/L or TS-II or better effluent is produced by the approved system.
- (5) Bed system installation shall be in accordance with Rule .0903(e) of this Subchapter and the following criteria:
- (A) two or more equally sized beds shall be used and the beds shall not be located beneath the advanced pretreatment components; and
- (B) effluent shall be distributed to the beds by a pressure dispersal system. A timed dosed system shall be used to distribute flow evenly to the beds over a 24-hour period.
- (e) Bed systems receiving TS-I or TS-II quality effluent may be proposed for a site with existing fill that meets the requirements of Rule .0909(d) of this Subchapter under the following conditions:
- (1) no SWC exists within 18 inches of the existing fill surface;
- (2) 18 inches of vertical separation exists to the SWC;
- (3) the DDF does not exceed 480 gpd; and
- (4) pressure dispersal is used. The requirement for pressure dispersal shall not be required if the advanced pretreatment system PIA Approval allows for advanced pretreatment unit(s) to discharge directly to the underlying bed and for multiple units, where applicable, when the advanced pretreatment units are spaced at equal intervals across the entire bed area.

*Authority G.S. 130A-334; 130A-335; 130A-342; 130A-343.*

### **SECTION .1300 – OPERATION AND MAINTENANCE**

#### **15A NCAC 18E .1301 OPERATION AND MAINTENANCE OF WASTEWATER SYSTEMS**

- (a) Wastewater systems shall be operated and maintained in accordance with the conditions of the OP, PIA Approval, and the Rules of this Section, including maintaining setbacks as required in Section .0600 of this Subchapter and the manufacturer's operation and maintenance instructions, as applicable. Dispersal field repair areas shall be maintained in accordance with the Rules of this Subchapter.
- (b) System management in accordance with Table XXXII shall be required for all systems installed or repaired after July 1, 1992. System management in accordance with Table XXXII shall also be required for all Type V and VI systems installed on or before July 1, 1992.

**TABLE XXXII.** Management responsibilities based on wastewater system classification type and description

<b>System Classification Type and Description</b>	<b>LHD Compliance Inspection Frequency</b>	<b>Management Entity</b>	<b>Management Entity Minimum Maintenance Inspection Frequency</b>
<u>Ia – Privy or vault privy</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>Ib – Chemical toilet</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>Ic – Incinerating toilet</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>Id – Composting toilet system</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>Ie – Other toilet system</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>IIa – Conventional system for a single family or 480 gpd or less</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>IIb – Accepted wastewater gravity system</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>IIIa – Conventional wastewater system greater than 480 gpd excluding single family residences</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>IIIb – Wastewater system with a single pump or siphon</u>	<u>5 years</u> <u>N/A</u>	<u>Owner or</u> <u>Certified Operator</u>	<u>N/A</u> <u>5 years</u>

**PROPOSED RULES**

<u>IIIc – Gravity fill system</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>IIId – Alternating dual fields with gravity distribution</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>IIIe – PPBPS gravity system</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>IIIf – LDP gravity system</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>IIIg – Other non-conventional systems</u>	<u>N/A</u>	<u>Owner</u>	<u>N/A</u>
<u>IIIfh – Gravity groundwater lowering system</u>	<u>5 years</u>	<u>Owner</u>	<u>N/A</u>
<u>IVa – LPP distribution</u>	<u>3 years</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>2/year</u>
<u>IVb – System with more than one pump or siphon</u>	<u>3 years</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>2/year</u>
<u>IVc – Off-site system serving two or more facilities with any components under common or joint control</u>	<u>5 years</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>1/year</u>
<u>IVd – Alternating dual fields with pressure dosed gravity distribution including off-site systems</u>	<u>3 years</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>1/year</u>
<u>Va – Advanced pretreatment meeting NSF-40, TS-I, or TS-II, approved under Section .1700 of this Subchapter, DDF ≤ 3,000 gpd</u>	<u>1/year</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>≤ 1,500 gpd - 2/year*</u> <u>&gt; 1,500 gpd and ≤ 3,000 gpd - 4/year</u>
<u>Vb – DSE wastewater systems &gt; 3,000 gpd with dispersal field &gt; 1,500 gpd</u>	<u>1/year</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>&gt; 3,000 and ≤ 10,000 gpd - monthly</u> <u>&gt; 10,000 gpd flow - weekly</u>
<u>Vc – RWTS, approved under Section .1500 of this Subchapter, meeting NSF-40, DDF ≤ 1,500 gpd</u>	<u>1/year</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>≤ 1,500 gpd - 2year*</u>
<u>Vd – Anaerobic drip dispersal systems</u>	<u>1/year</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>≤ 1,500 gpd - 2/year*</u> <u>&gt; 1,500 gpd and ≤ 3,000 gpd - 4/year</u> <u>&gt; 3,000 gpd and ≤ 10,000 gpd – 12/year</u> <u>&gt; 10,000 gpd – 1/week</u>
<u>Ve - Flow equalization</u>	<u>≤ 1,500 gpd – once every three years</u> <u>&gt; 1,500 gpd – 1/year</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>Based on equalized flow</u> <u>≤ 1,500 gpd - 2/year</u> <u>&gt; 1,500 and ≤ 3,000 gpd - 4/year</u> <u>&gt; 3,000 gpd and ≤ 10,000 gpd – 12/year</u> <u>&gt;10,000 gpd – 1/week</u>
<u>Vf – Sand lined trench system with no advanced pretreatment or drip dispersal</u>	<u>1/year</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>1/year</u>
<u>Vg – Wastewater system with pump groundwater lowering systems</u>	<u>1/year</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>2/year with one visit during the wet season</u>

<u>Vh – IPWW designed by a PE and reviewed by the Department and determined to be IPWW</u>	<u>1/year</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>&lt; 1,500 gpd - 2/year*</u> <u>&gt; 1,500 gpd and &lt; 3,000 gpd - 4/year</u> <u>&gt; 3,000 gpd and ≤ 10,000 gpd - 12/year</u> <u>&gt; 10,000 gpd – 1/week</u>
<u>Vi – Permanent pump and haul</u>	<u>1/year</u>	<u>Private Certified Operator</u>	<u>1/month</u>
<u>VIa – Advanced pretreatment &gt; 3,000 gpd meeting NSF-40, TS-I, or TS-II</u>	<u>6 months</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>Media filters</u> <u>&gt; 3,000 gpd and ≤ 10,000 gpd - 12/year</u> <u>&gt;10,000 gpd – 1/week</u>  <u>All other advanced pretreatment</u> <u>&gt; 3,000 gpd and &lt; 10,000 gpd - 12/year</u> <u>&gt; 10,000 and ≤ 25,000 gpd - 2/week</u> <u>&gt; 25,000 and ≤ 50,000 gpd - 3/week</u> <u>&gt; 50,000 gpd - 5/week</u>
<u>VIb – Any system using RCW</u>	<u>6 months</u>	<u>Private Certified Operator or Public Management Entity with a Certified Operator</u>	<u>&lt; 3,000 gpd - 12/year</u> <u>&gt; 3,000 and &lt; 10,000 gpd - 1/week</u> <u>&gt; 10,000 and &lt; 25,000 gpd - 2/week</u> <u>&gt; 25,000 and ≤ 50,000 gpd - 3/week</u> <u>&gt; 50,000 gpd - 5/week</u>

\*Quarterly Management Entity inspections shall be required for the first year. The quarterly inspections may be reduced to twice a year if the wastewater system is in compliance with all OP conditions after the first year.

(c) Wastewater systems with multiple components shall be classified by their highest or most complex system classification type in accordance with Table XXXII to determine LHD and Management Entity responsibilities.

(d) The Department shall classify wastewater systems not identified in Table XXXII after consultation with the Water Pollution Control Systems Operators Certification Commission.

(e) The site for the wastewater system shall be accessible for monitoring, maintenance, inspection, and repair.

(f) The system shall be maintained to comply with the effluent standards specified in Table XXV of Rule .1201(a) or Rule .1002 of this Subchapter and the OP, as applicable. Influent and effluent sampling may be required for food preparation or processing facilities, IPWW, and other systems as specified in the PIA Approval or OP.

(g) The owner may submit a written request to the LHD and Department to reduce the wastewater system effluent sampling frequency, effluent sampling constituents, or Management Entity inspection frequency. The written request shall include documentation showing that the wastewater system is compliant with its OP and Rule .1302(f) of this Section.

(h) The replacement of a specific component by an identical replacement component, including pipes, blowers, pumps, disinfection components, effluent filters, and control panels and appurtenances, shall be considered maintenance. When the replacement is performed as maintenance by the Management Entity, this activity shall be reported to the owner and LHD within 30 days of when the activity occurs.

(i) All residuals shall be removed as specified in the OP, the RWTS or PIA Approval, Rule .1303 of this Section, or as otherwise determined to be needed by the Management Entity. Residuals from the wastewater system shall be transported and disposed of in accordance with G.S. 130A, Article 9, and 15A NCAC 13B.

*Authority G.S. 130A-335(e) and (f); S.L. 2015-147, s.2.*

#### **15A NCAC 18E .1302 OPERATION AND MAINTENANCE OF ADVANCED PRETREATMENT SYSTEMS**

(a) This Rule shall apply to all advanced pretreatment systems approved in accordance with Sections .1500 and .1700 of this Subchapter.

(b) System management in accordance with Table XXXII of Rule .1301(b) of this Section shall be required for advanced pretreatment systems.

(c) Prior to the issuance or re-issuance of an OP for an advanced pretreatment system, the owner shall provide to the LHD documentation that a contract for operation and maintenance of the system is in place with a Management Entity. For proprietary advanced pretreatment systems, the contract shall be with either the manufacturer, manufacturer's representative, or a Management Entity authorized in writing by the manufacturer or manufacturer's representative to operate the system. For non-proprietary advanced pretreatment systems, the contract shall be with an operator certified in accordance with Rule .0303(e) of this Subchapter for the classification indicated on the OP.

(d) Operation and maintenance for advanced pretreatment shall be in accordance with the following:

- (1) the Management Entity shall evaluate the performance of each system;
- (2) minimum inspection, sampling, and reporting frequency shall be in accordance with this Section, the RWTS or PIA Approval, and conditions of the OP;
- (3) the Management Entity shall inspect each system during one or more of the required Management Entity inspections while the system is in operation using a VIP specified by the manufacturer and included in the RWTS or



PIA Approval. The VIP shall include the following:

(A) a visual inspection and evaluation of all critical treatment components and of the effluent in the field for solids, clarity, color, and odor. The VIP shall also include field tests of pH, turbidity, and dissolved oxygen content and, for TS-II systems, alkalinity, and any other tests proposed by the manufacturer and specified in the RWTS or PIA Approval;

(B) compliance criteria to determine system compliance status and proposed responses to conditions observed; and

(C) for systems serving vacation rentals subject to the North Carolina Vacation Rental Act, G.S. 42A, this visit shall be scheduled during the seasonal high use period and shall coincide with a water quality sampling event if required in accordance with Rule .1709 of this Subchapter;

(4) the actual flow shall be recorded in accordance with the RWTS or PIA Approval by the Management Entity prior to the visual inspection of the system in accordance with Subparagraph (d)(3) of this Rule and prior to any effluent sampling event required in accordance with Rule .1709 of this Subchapter; and

(5) sampling and resampling for an approved RWTS or PIA System shall be undertaken as required in accordance with Rule .1709 of this Subchapter and the following:

(A) all samples shall be collected, preserved, transported, and analyzed in compliance with 40 CFR 136;

(B) samples shall be taken to a certified laboratory, as defined in G.S. 130A-313(2), for analysis;

(C) documented chain of custody for each sample collected shall be maintained; and

(D) re-sampling at any site shall be performed as required in the RWTS or PIA Approval, Rule .1709 of this Subchapter, or as otherwise directed by the LHD or Department as part of an enforcement action. The owner, manufacturer, or manufacturer's representative may also re-sample a system to verify or refute sample results. A new complete data set for re-sampling conducted within 30 days of receipt of a non-compliant data set may be substituted to demonstrate compliance with the designed effluent

quality standard in accordance with Table XXV of Rule .1201(a) of this Subchapter. All sample results collected shall be reported.

(e) The results of all sampling shall be reported by the Management Entity to the owner, LHD, Department, and the proprietary advanced pretreatment manufacturer.

(f) An individual advanced pretreatment system at a single site shall be considered compliant when the following conditions are met:

(1) annual VIP specified in the RWTS or PIA Approval indicates that the results of the VIP meet the requirements specified in the RWTS or PIA Approval; and

(2) the arithmetic mean for BOD<sub>5</sub>, TSS, TKN, and TN and the geometric mean for Fecal Coliform from three or more consecutive sampling dates does not exceed the designated effluent standard in Table XXV in Rule .1201(a) of this Subchapter. A new complete data set for re-sampling conducted within 30 days of receipt of a non-compliant data set may be substituted to demonstrate compliance with the designed effluent quality standard in accordance with Table XXV of Rule .1201(a) of this Subchapter.

(g) Mass loading for BOD<sub>5</sub>, TSS, or TN may be used to demonstrate site compliance with Subparagraph (f)(2) of this Rule for a wastewater system with a DDF less than or equal to 3,000 gpd. The mass loading to the wastewater system shall be based on site-specific water use data and effluent sampling results. At least one year of water use data shall be used in this calculation. The mass loading to the wastewater system shall be calculated as follows:

EML     ≡     Flow x EFF

AML     ≡     0.6 x DDF x TS

If EML ≤ AML, the site is compliant

Where     EML     ≡     effective mass loading

AML     ≡     allowable mass loading

Flow     ≡     average daily flow during the

peak water use month or the

average of the peak 30

consecutive day period

during the prior year, in gpd

EFF     ≡     average of the results for the

constituent from at least the

two most recent complete

data sets, in mg/L

TS     ≡     the effluent limit based on the

constituent and effluent

standard in mg/L, from Table

XXV in Rule .1201(a) of this

Subchapter

(h) The Management Entity may record daily wastewater flow and may sample influent to the advanced pretreatment system as needed to determine compliance with this Rule and OP conditions.

*Authority G.S. 130A-335(e) and (f).*

**15A NCAC 18E .1303 OWNER RESPONSIBILITIES FOR WASTEWATER SYSTEM OPERATION AND MAINTENANCE**

(a) Any person owning or controlling the property upon which a wastewater system is installed shall be responsible for the following items regarding the operation and maintenance of the system:

- (1) the wastewater system shall be operated and maintained to protect North Carolina ground and surface water quality standards and to prevent the following conditions:
  - (A) discharge of sewage or effluent to the surface of the ground, surface waters, or into groundwater at any time;
  - (B) back-up of sewage or effluent into the facility, building drains, collection system, freeboard volume of the tanks, or distribution system; or
  - (C) effluent within three inches of finished grade over one or more trenches based on two or more observations made not less than 24 hours apart, and greater than 24 hours after a rainfall event;
- (2) the system shall be considered to be malfunctioning when one or more of the conditions of Subparagraph (a)(1) of this Rule occur or if it is necessary to remove the contents of the tank(s) at a frequency greater than once per month in order to prevent one or more of the conditions of Subparagraph (a)(1) of the Rule. The owner shall contact the LHD when the wastewater system is malfunctioning and implement remedies as directed by the LHD in accordance with Rule .1306 of this Section;
- (3) wastewater systems shall be inspected, and the entire contents of all septic tank compartments shall be removed whenever the depth of both the scum and sludge is found to be more than one-third of the liquid depth in any compartment. The effluent filter shall be rinsed to remove accumulated solids that can cause the wastewater to back up into the facility or clog the system, or replaced as needed;
- (4) residuals from the wastewater system shall be transported and disposed of in accordance with G.S. 130A, Article 9, and 15A NCAC 13B;
- (5) grease traps and grease tanks shall be pumped as needed to prevent discharge of FOG from the trap or tank to the next treatment component, but no less than yearly. Grease traps and grease tanks shall be maintained in accordance with Rule .0803(h) of this Subchapter and the owner shall maintain a contract with a septage management firm. All pumping records shall be maintained on-site;
- (6) site-specific vegetation shall be established and maintained over the wastewater system and repair area to stabilize slope and control erosion; and

- (7) activities that result in soil disturbance or soil compaction shall not occur over the initial and repair dispersal field areas.

(b) A contract for operation and maintenance of a wastewater system required to be maintained by a Management Entity, as specified in Table XXXII of Rule .1301(b) of this Section, shall be in effect for as long as the system is in use. A contract shall be executed between the system owner and a Management Entity prior to the issuance of an OP, unless the system owner and Management Entity are the same. The contract shall include:

- (1) specific requirements for operation, maintenance, and associated reporting;
- (2) responsibilities of the owner;
- (3) responsibilities of the Management Entity;
- (4) provisions for notification to the LHD by the owner and Management Entity upon termination of the contract; and
- (5) other requirements for the continued performance of the system, as determined by the Management Entity, LHD, and Department, as applicable.

*Authority G.S. 130A-335(e) and (f).*

**15A NCAC 18E .1304 MANAGEMENT ENTITY RESPONSIBILITIES FOR WASTEWATER SYSTEM OPERATION AND MAINTENANCE**

(a) When a Management Entity is required to be or to employ a certified operator as specified in Table XXXII in Rule .1301(b) of this Section, the operator shall, at a minimum, be certified as a subsurface operator in accordance with G.S. 90A, Article 3, and 15A NCAC 08G. Operators of systems classified as Type V or VI in Table XXXII in Rule .1301(b) of this Section may be required to have additional certifications by the Department in accordance with Rule .1301(e) of this Section and upon consultation with the Water Pollution Control Systems Operator Certification Commission, if required by G.S. 90A, Article 3.

(b) The Management Entity shall inspect the wastewater system at the frequency specified in Table XXXII in Rule .1301(b) of this Section or in accordance with the RWTS or PIA Approval.

(c) The Management Entity shall provide a copy of the inspection report, including results of the VIP with respect to compliance criteria as specified in the RWTS or PIA Approval and effluent sampling, to the owner, LHD, and manufacturer within 30 days of the system inspection.

(d) When inspections indicate the need for system repairs, the Management Entity shall notify the LHD within 48 hours.

(e) The Management Entity shall be responsible for conducting routine maintenance procedures and monitoring requirements in accordance with the conditions of the OP and the contract.

(f) The Management Entity shall notify the LHD and the proprietary advanced pretreatment manufacturer, as applicable, when the owner or the Management Entity chooses not to renew an operation and maintenance contract executed in accordance with this Rule.

(g) The Management Entity shall submit the inspection report to the Department centralized data management system.

*Authority G.S. 130A-335(e) and (f).*

**15A NCAC 18E .1305 LOCAL HEALTH DEPARTMENT RESPONSIBILITIES FOR WASTEWATER SYSTEM OPERATION AND MAINTENANCE**

- (a) No IP, CA, or OP shall be issued for Type IV, V, or VI systems, unless a Management Entity of the type specified in Table XXXII in Rule .1301(b) of this Section is authorized and operational to carry out operation and maintenance requirements for the wastewater system as set forth in these Rules and the OP.
- (b) An LHD may be the Management Entity only for systems classified Type IV, Va, Vb, Vc, Vd, Ve, Vf, and Vg and only when authorized by the local board of health.
- (c) An authorized agent shall review the performance and inspection reports submitted in accordance with Rule .1304(c) of this Section and perform an on-site compliance inspection of the systems as required in Table XXXII in Rule .1301(b) of this Section. More frequent inspections may be performed by an authorized agent if requested by the system owner or the Management Entity, or specified in the PIA approval or OP.
- (d) The LHD may provide the owner with the option for a private Management Entity, who is not the owner, to perform the on-site compliance inspection for Type IIIb and IIIh systems in accordance with Table XXXII in Rule .1301(b) of this Section instead of the LHD. The Management Entity shall provide to the owner and LHD a written compliance inspection report every five years. The report shall document that the wastewater system is compliant with this Subchapter, the performance standards in the OP or ATO, and conditions in the OP or the ATO.
- (e) The authorized agent shall issue a written notice of non-compliance to the owner when the wastewater system is non-compliant with this Subchapter, the performance standards in the OP or ATO, or conditions in the OP or the ATO.
- (f) The LHD shall investigate malfunctions in accordance with Rule .1306 of this Section.

*Authority G.S. 130A-335(e) and (f).*

**15A NCAC 18E .1306 SYSTEM MALFUNCTION AND REPAIR**

- (a) This Rule identifies the responsibilities of the LHD and the owner when a system is malfunctioning or otherwise determined to require repair.
- (b) The LHD or Department shall issue a written NOV to the wastewater system owner in accordance with Rule .0302(c) of this Subchapter.
- (c) The wastewater system shall be repaired within 30 days of the date on the NOV issued by the Department or LHD unless the NOV specifies a different time frame for the repair based on site-specific factors, such as the severity of the repair, wastewater backing up into a restaurant or discharging into SA waters, or adverse weather that delays construction of the repair. The following steps shall be followed to remedy a malfunctioning wastewater system:
- (1) The owner shall apply for a repair in accordance with Section .0200 of this Subchapter, unless only maintenance is required to bring the wastewater system into compliance.
  - (2) After investigating the malfunction, the Department or LHD shall require that the

wastewater system be repaired to correct the malfunction and eliminate any public health hazard. The wastewater system shall be repaired so that it meets G.S. 130A, Article 11 and this Subchapter. When it is not possible to bring the wastewater system into compliance with G.S. 130A, Article 11 and this Subchapter, the authorized agent shall use their best professional judgement, based on education and experience, to require a repair that should enable the wastewater system to function in a manner that complies with Rule .1303(a)(1) of this Section. The LHD shall document the repair using best professional judgement on the CA and OP.

- (3) When necessary to protect the public health, the Department or LHD shall require the owner of a malfunctioning system to pump and haul sewage to an approved wastewater system during the time needed to repair the wastewater system. This requirement shall be included in the NOV issued to the owner.

(d) If no repair options are available for the wastewater system in accordance with Paragraph (c), the LHD may issue a CA for a permanent pump and haul system. The owner shall submit an application to the LHD for the permanent pump and haul system. The application and permanent pump and haul system shall meet the following conditions:

- (1) The owner shall provide the following information as part of the application:
  - (A) documentation that the system cannot be repaired by connection to a system approved under this Section or Rules adopted by the Environmental Management Commission;
  - (B) a contract with a septage management firm permitted in accordance with G.S. 130A-291.1 to pump and haul the sewage;
  - (C) documentation that the wastewater system has been approved under this Subchapter or in accordance with 15A NCAC 02H or 15A NCAC 02T to accept sewage; and
  - (D) documentation from the facility receiving the sewage confirming that the facility has the capacity for the additional sewage and agrees to accept it.
- (2) The LHD shall design the pump and haul system based on the following criteria:
  - (A) tankage with a minimum of five days storage capacity and two days emergency storage capacity;
  - (B) high-water alarm set to go off with two days of emergency storage capacity left in the tankage; and
  - (C) telemetry unit that contacts the septage management firm.

- (3) The owner of a non-residential facility may request a reduction in the five day storage requirement, if the owner can document the ability to have the tanks pumped out with only 24 hours' notice. The total tank capacity shall never be less than the minimum required septic tank and pump tank capacity required by Section .0800 of this Subchapter.
- (4) Tanks shall be approved by the LHD for permanent pump and haul if shown to be structurally sound, watertight, and of a capacity needed based on the DDF and projected pumping frequency. Existing tanks may be used for permanent pump and haul if the tanks meet the requirements in this Subparagraph.
- (5) Prior to issuing the OP, the LHD shall receive from the owner a contract with a Management Entity for inspection and maintenance of the system.
- (6) A non-transferrable OP, valid for a period not to exceed five years, shall be issued to the pump and haul system owner.

(e) A malfunctioning wastewater system that has been disconnected from the facility for any reason shall be repaired prior to reuse.

(f) If a malfunctioning wastewater system is found to be nonrepairable the dispersal system shall not be used. The system owner shall be required to abandon the system to protect the public health and safety as specified in Rule .1307 of this Section.

(g) For facilities with a malfunctioning wastewater system installed prior to July 1, 1977, the authorized agent shall use their best professional judgement, based on education and experience, to repair the system.

(h) For facilities with a straight pipe installed prior to July 1, 1977, which has been in continual use and acts as the sole source of wastewater disposal, the authorized agent shall use their best professional judgement, based on education and experience, to repair the straight pipe.

(i) Legal remedies may be pursued, in accordance with G.S. 130A, Article 1, Part 2, after an authorized agent has observed and documented one or more malfunctioning conditions and issued an NOV.

*Authority G.S. 130A-291.1; 130A-291.2; 130A-335(e) and (f).*

#### **15A NCAC 18E .1307 WASTEWATER SYSTEM ABANDONMENT**

If a wastewater system is abandoned or is otherwise no longer in use, the tanks shall:

- (1) have the contents removed by a septage management firm permitted in accordance with G.S. 130A-291.1;
- (2) be removed, collapsed, or otherwise rendered unable to retain liquid, and backfilled; and
- (3) have the electrical components de-energized and above ground components removed.

*Authority G.S. 130A-335.*

#### **SECTION .1400 – APPROVAL OF TANKS, RISERS, EFFLUENT FILTERS, AND PIPE PENETRATION BOOTS**

##### **15A NCAC 18E .1401 PLANS FOR PREFABRICATED TANKS**

(a) All tanks proposed for use in a wastewater system described in this Subchapter shall be approved by the Department. Tanks shall be approved as follows:

- (1) The tank design shall be approved based on the plans and specifications submitted in accordance with Subparagraphs (c)(1) through (c)(8) of this Rule. After the tank design has been approved, a temporary identification number shall be assigned for tracking purposes.
- (2) The tank shall pass a structural load test as described in Subparagraph (c)(9) of this Rule. The test shall be performed and certified by a third-party. The test shall be observed in person by the Department, LHD, PE, or a credentialed testing organization. If the tank passes the structural load test, then the tank shall be assigned a permanent identification number. Tanks shall not be sold for use in a wastewater system without a permanent identification number.
- (3) The structural design verification shall be required for new tanks, modifications to tank design, and when tank forms are sold to a different tank manufacturer.
- (4) Pump tanks may be tested and approved with a baffle wall, without a baffle wall, or with a partial baffle wall. The most limiting design produced by the manufacturer shall be tested.

(b) The tank manufacturer shall submit three copies of the plans and specifications for the initial design of each tank to the Department for approval.

(c) Plans and specifications for tanks with a total liquid capacity less than or equal to 4,000 gallons shall include the following:

- (1) all tank dimensions in inches, including:
  - (A) top, bottom, and sidewall thickness and variations;
  - (B) minimum and maximum dimensions on tanks with tapered or ribbed walls;
  - (C) baffle wall location and minimum and maximum thickness and variations;
  - (D) location and dimension of all openings in baffle wall for gas and liquid movement; and
  - (E) dimensions of all compartments;
- (2) material type and strength, including reinforcement material and location, as applicable, specified by the manufacturer;
- (3) method for fastening the baffle wall to the tank interior;
- (4) liquid depth and operating capacity in gallons;
- (5) pipe penetration boot locations and pipe penetration boots approved in accordance with Rule .1404 of this Section;

- (6) methods and material for sealing sections and forming watertight joints in tanks with multiple sections;
- (7) drawings showing access openings, tank lids, access manhole risers, and other proposed appurtenances to the tank;
- (8) tank manufacturer and PE requirements for installation, including bedding, additional sealing methods, and leak testing procedures; and
- (9) documentation of proof of design. The tank shall withstand a minimum uniform live load of 150 pounds per square foot in addition to the dead weight of the material and all geostatic and hydrostatic loads to which an underground tank is normally subjected, such as active soil pressure on tank walls and the uplifting force of groundwater. The documentation shall be one of the following:
  - (A) a vacuum test of 4.24 inches of mercury held for five minutes meeting the following criteria:
    - (i) no loss in vacuum greater than two-fifths of an inch of mercury during the test;
    - (ii) no deformation or deflection greater than two percent along any dimension unless shown by measurement or calculation to result in a reduction in volume no greater than two percent;
    - (iii) no distortion of the access openings occurs during the testing that prevents removal and replacement of the access opening lids at the conclusion of the test; and
    - (iv) for tanks constructed with integral risers, no distortion of the riser during the testing and the riser lid can be removed and replaced at the conclusion of the test;
  - (B) calculations from a PE that the tank can withstand the loading requirements of this Subparagraph and the performance requirements of Part (A) of this Subparagraph shall be met; or
  - (C) the tank shall be either IAPMO/ANSI Z1000 or CSA B66 certified and the tank manufacturer enrolled in a third-party quality assurance and quality control program, which includes material testing and unannounced annual manufacturing facility audits.

(d) Plans and specifications for tanks with a total liquid capacity greater than 4,000 gallons and all tanks designed for traffic loads

shall be designed by a PE in accordance with ASTM C890. Plans shall show the design, including all the information listed in Paragraph (c) of this Rule and engineering calculations showing the minimum and maximum soil burial depth, water table, and traffic load the tank is designed to support.

(e) Plans for tanks not proposed for general use and issued an identification number under this Section shall meet the minimum requirements of this Section and shall be approved by the Department.

(f) The Department or LHD may inspect approved tanks at the place of manufacture, the inventoried sites of the distributors, or at the installation of the tank in a wastewater system for compliance with the approved plans and specifications.

(g) Tanks found to be out of compliance shall be brought back into compliance by the tank manufacturer or the installer as directed by the Department or LHD. Tanks that are not or cannot be brought into compliance shall not be used in a wastewater system and the imprints identified in Rule .1402(d)(15) or (e)(8) of this Section shall be permanently marked over by the authorized agent.

*Authority G.S. 130A-335(e), (f), and (f1).*

#### **15A NCAC 18E .1402 TANK DESIGN AND CONSTRUCTION**

(a) Tanks shall be watertight, structurally sound, and not subject to corrosion or decay.

(b) Septic tanks and grease tanks shall have effluent filters and access devices approved in accordance with Rule .1404 of this Section. An effluent filter and support case shall be installed level in the outlet end of the septic tank or grease tank and shall meet the following criteria:

- (1) solvent welded to a minimum of three-inch PVC Schedule 40 outlet pipe;
- (2) be installed in accordance with filter manufacturer's specifications and effluent filter approval; and
- (3) be accessible and removable without entering the septic tank or grease tank.

(c) Septic tanks installed where the access openings on the top of the tank are deeper than six inches below finished grade shall have an access riser over each compartment with a cover that extends to within six inches of the finished grade. The opening of the access riser shall be large enough to accommodate the removal of the septic tank lid. When the top of the septic tank or access riser is below the finished grade, the location of the tank shall be visible at finished grade. When access risers are used they shall be installed in accordance with the Rules of this Subchapter, the manufacturer's specifications, and the Department's approval.

(d) Septic tanks shall meet the following minimum design standards:

- (1) a minimum liquid depth of 36 inches;
- (2) a minimum of nine inches freeboard, measured as the air space between the top of the liquid and the bottom of the tank top. Venting of the tank shall be provided to prevent the buildup of gases;

- (3) the approved septic tank capacity shall be determined as the liquid volume below the outlet invert to the bottom of the tank;
  - (4) the length of the tank shall be a minimum of twice as long as the width, as measured by the longest axis and widest axis based on the internal tank dimensions;
  - (5) there shall be three inlet openings in the tank, one on the tank end and one on each sidewall of the inlet end of the tank;
  - (6) outlet openings shall have a cast or manufactured penetration point and include a watertight, sealed, non-corrodible, and flexible connective sleeve. A flexible connective sleeve shall be able to bend without breaking. The connective sleeve shall meet ASTM C1644 for precast concrete tanks or ASTM C1644, C923, or C564 for thermoplastic or glass-fiber-reinforced polyester tanks and be approved by the Department if it meets the requirements of this Subparagraph and Rule .1404 of this Section;
  - (7) inlet penetrations shall be greater than or equal to four inches in diameter and outlet penetrations shall be greater than or equal to three inches in diameter;
  - (8) there shall be no openings below the septic tank operating liquid level;
  - (9) the outlet shall be through an effluent filter approved in accordance with Rule .1404 of this Section, and secured in place in an effluent filter support case. The effluent filter case inlet shall extend down to between 25 and 50 percent of the liquid depth measured from the top of the liquid level. Other methods of supporting the effluent filter case and for making pipe penetrations shall be approved by the Department on a case-by-case basis upon a showing that the performance is identical to those designed in accordance with this Rule;
  - (10) the invert of the outlet shall be a minimum of two inches lower in elevation than the invert of the inlet;
  - (11) all septic tanks shall be designed with a partition so that the tank contains two compartments. The following conditions shall be met:
    - (A) the partition shall be located at a point not less than two-thirds or more than three-fourths the length of the tank from the inlet end;
    - (B) the partition shall be designed, manufactured, installed, and maintained to remain in position when subjected to a liquid capacity in one compartment that corresponds with the lowermost elevation of the water passage slot or holes;
    - (C) the partition shall be designed to create a gas passage, not less than the area of the inlet pipe, and the passage shall not extend lower than seven inches from the bottom side of the tank top;
    - (D) the top and bottom sections of the partition shall be designed to create a water passage slot four inches high for the full interior width of the tank, or a minimum of two four- or five-inch openings, or one four- or five-inch opening per 30 horizontal linear inches of baffle wall, whichever is greater, may be designed into the partition instead of the four-inch slot;
    - (E) the partition shall be designed, manufactured, and installed to create an average opening not greater than one-half inch between the partition and the tank wall below the liquid level, with a tolerance of one-half inch;
    - (F) the entire liquid passage in the partition wall shall be located between 25 and 50 percent of the liquid depth of the tank, as measured from the top of the liquid level; and
    - (G) other methods for designing partition shall be approved by the Department on a case-by-case basis upon a showing that the performance is identical to those designed in accordance with this Rule;
  - (12) access openings shall be provided in the top of the tank, located over each compartment, and have a minimum opening of 15 inches by 15 inches or 17 inches in diameter. The opening shall allow for maintenance and removal of internal devices of the septic tank;
  - (13) access risers and covers shall be designed and manufactured to prevent surface water infiltration;
  - (14) tank lids and riser covers shall be locked, secured with fasteners, or weigh a minimum of 40 pounds, but no more than 80 pounds; and
  - (15) all septic tanks shall bear an imprint or embossment identifying the manufacturer, the septic tank serial number assigned to the manufacturer's plans and specifications approved by the Department, and the liquid or working capacity of the tanks. The imprint or embossment shall be located to the right of the blockout made for the outlet pipe on the top or end of outlet end of the tank.
- (e) Pump tanks shall meet the design requirements of Paragraph (d) of this Rule with the following modifications:
- (1) a watertight access riser with removable cover shall be located over the pump. The access riser shall extend to a minimum of six inches above

- (2) finished grade and shall be designed and maintained to prevent surface water infiltration; the access opening over the pump shall have a minimum opening of 24 inches in diameter or equidimensional opening;
- (3) when two or more pumps are required in accordance with Rule .1101(b) of this Subchapter the access openings shall be sized to allow for pump removal, operation, and maintenance;
- (4) tanks may be designed with a single compartment. If a partition is provided, the partition shall be designed to contain a minimum of two four-inch diameter circular openings, or openings with an equivalent area, located no more than 12 inches above the tank bottom;
- (5) there shall be no requirement as to tank length, width, or shape, provided the tank satisfies all other requirements of the rules of this Section;
- (6) the invert of the inlet openings shall be located within 12 inches of the tank top. No freeboard shall be required in the pump tank;
- (7) tanks shall be vented if located more than 50 feet from the facility, and accessible for routine maintenance;
- (8) all pump tanks shall bear an imprint or embossment identifying the manufacturer, the pump tank serial number assigned to the manufacturer's plans and specifications by the Department, and the liquid or working capacity of the tank. The imprint or embossment shall be located to the left of the blockout made for the outlet pipe on the top or end of outlet end of the tank; and
- (9) the pump tank working capacity shall be the entire internal tank volume.

(f) Grease tanks shall be septic tanks approved in accordance with Paragraph (d) of this Rule with the following modifications:

- (1) the liquid passage between chambers shall be located between 40 and 60 percent of the operating liquid depth measured from the top of the liquid level. The liquid passage between chambers may be made using a sanitary tee extending down between 40 and 60 percent of the liquid depth measured from the top of the liquid level;
- (2) when sanitary tees are used as the liquid passage through an interior compartment partition, an access opening and riser to grade over the tees shall be provided for servicing and routine maintenance;
- (3) when two or more tanks are used in series, a sanitary tee shall be provided in the outlet end of each interconnected tank extending down between 40 and 60 percent of the liquid depth;
- (4) the final chamber shall contain an effluent filter and support case extending down between 40 and 60 percent of the liquid depth. The effluent

filter shall be approved by the Department for use in grease tanks. The grease rated effluent filter shall be sized for the DDF and have openings of 1/32-inch or less; and

- (5) access risers shall extend to finished grade and be capped with cast iron manhole rings and covers. Lockable aluminum hatches may be substituted for cast iron manhole rings and covers in non-traffic areas. Aluminum hatches or manhole rings and covers shall be designed and maintained to prevent surface water infiltration. Locks shall be the responsibility of the person owning or controlling the system.

(g) Siphon tanks shall meet the design requirements of Paragraph (e) of this Rule and shall:

- (1) be designed in accordance with the construction requirements of this Rule and Rule .0804 of this Subchapter;
- (2) provide three inches of freeboard;
- (3) have the invert of the inlet pipe three inches above the siphon trip level; and
- (4) have a watertight access opening over each siphon with an opening of 24 inches, extending to finished grade, and designed to prevent surface water inflow.

*Authority G.S. 130A-335(e), (f), and (f1); 130A-335.1.*

#### **15A NCAC 18E .1403 TANK MATERIAL REQUIREMENTS**

(a) Tanks approved in accordance with this Section shall be constructed of materials capable of resisting corrosion from sewage and sewage gases, structurally sound, and watertight.

(b) Reinforced precast concrete tanks shall meet the following minimum material and construction requirements:

- (1) the ends and sides of the tank shall have a minimum thickness of two and one-half inches. The top and bottom of the tanks shall be a minimum of three inches thick;
- (2) the top, bottom, end and sides of the concrete tank and tank lid shall be reinforced by using a minimum reinforcing of six-inch by six-inch No. 10 gage welded steel reinforcing wire. Reinforcement shall be placed to maximize the structural integrity of the tank;
- (3) alternative reinforcement designs may be used when they perform in a manner equal to or more effective than the reinforcement design described in Subparagraph (2) of this Paragraph;
- (4) when the concrete tank, tank lid, riser, or riser cover are subjected to vehicular traffic, the tank shall be designed by a PE to handle the traffic load in accordance with ASTM C890;
- (5) any tank installed deeper than three feet shall be designed by a PE for the proposed tank burial depth. The tank design shall be submitted to the Department for review. The design shall be approved when documentation is provided to

show that the proposed tank design can withstand all active and passive loads on the tank, including the additional soil weight from a deeper burial depth.

- (6) the concrete shall achieve a minimum 28-day compressive strength of 4,000 psi. The concrete shall meet a compressive strength of 3,500 psi prior to removal of the tank from the place of manufacture. It shall be the responsibility of the manufacturer to certify that the tank meets this condition;
- (7) tanks manufactured in multiple sections shall be joined and sealed at the joint by using butyl rubber or other pliable sealant meeting ASTM C990 or other material that has been approved by the Department when documentation has been provided to show that the material meets all performance requirements of ASTM C990. Documentation shall also be provided to the Department to show that the material is waterproof and corrosion resistant; and
- (8) tank lids and riser covers shall have a durable handle made of corrosion-resistant materials and capable of pull capacity sufficient for the weight of the lid or cover.

(c) Thermoplastic tank materials shall conform with IAPMO/ANSI Z1000 or CSA B66 requirements.

(d) Glass-fiber-reinforced polyester tanks shall meet the following requirements:

- (1) top, bottom, ends, and sides of the tank shall have a minimum thickness of one-fifth inches. The baffle wall shall be a minimum of 3/16-inches thick;
- (2) material and laminate requirements specified in IAPMO/ANSI Z1000 or CSA B66 for glass-fiber-reinforced polyester tanks; and
- (3) enrolled in a third-party quality assurance and quality control program, which include material testing and unannounced annual audits.

(e) Cast or manufactured in place tanks shall be designed by a PE, if required by G.S. 89C, and approved by the Department when the tank design, construction, and materials meet the criteria set forth in this Rule and Rule .1402 of this Section.

*Authority G.S. 130A-335(e), (f), and (f1).*

#### **15A NCAC 18E .1404 PLANS AND SPECIFICATIONS FOR RISERS, EFFLUENT FILTERS, AND PIPE PENETRATION BOOTS**

(a) All risers, effluent filters, and pipe penetration boots proposed for use in a wastewater system shall be approved by the Department prior to being offered for sale or use in North Carolina.

(b) Three copies of the plans and specifications for the initial design of each riser, effluent filter, or pipe penetration boot shall be submitted to the Department. Plans for risers, effluent filters, and pipe penetration boots shall be approved by the Department and an approval letter issued when the design is found to comply with this Section. All changes or modifications to risers, effluent

filters, or pipe penetration boots shall be approved by the Department when the changes or modifications comply with the requirements of this Rule.

(c) Risers and riser lids shall be able to withstand a minimum uniform live loading of 300 pounds per square foot or a minimum 1,500 pound load applied in a 10 inch by 10 inch area centered on the lid, in addition to all loads to which a riser is normally subjected, such as dead weight of the material and soil cover and active soil pressure on riser walls.

(d) Riser plans and specifications submitted to the Department for review and approval shall show the design of the riser and include the following information:

- (1) manufacturer's name, mailing address, phone and fax numbers, email address, and name of manufacturer's point of contact;
- (2) physical dimensions of the riser and riser cover, including wall thickness, internal diameter, proposed casting or installation details and methods, and pipe penetrations;
- (3) material type and strength, including reinforcement material and location as required;
- (4) documentation from a third-party showing that the riser meets the load requirements specified in Paragraph (c) of this Rule;
- (5) plans for septic tank risers of a secondary lid, concrete plug, or other safety device that shall be provided inside the riser for security and to prevent accidental entry;
- (6) plans for pump tank risers of primary and secondary safety mechanisms that shall be provided with the riser. The primary safety mechanism shall be a locking riser lid, ring and lock, or other riser lid locking or tamper-resistant mechanism. The secondary safety mechanism shall be a secondary lid, concrete plug, or other safety device to be provided inside the pump tank riser; and
- (7) specifications for application, installation, operation, and maintenance for both new and retrofit applications for single and multiple riser sections.

(e) Effluent filter plans and specifications submitted to the Department for review and approval shall show the design of the effluent filter and include the following information:

- (1) manufacturer's name, address, phone and fax numbers, and contact name;
- (2) documentation and a written statement from the manufacturer that the effluent filter is designed, constructed, and performs in compliance with G.S. 130A-335.1(a);
- (3) capacity and wastewater strength for all models of proposed filters to be approved; and
- (4) specifications for application, installation, operation, and maintenance.

(f) Pipe penetration boot plans and specifications submitted to the Department for review and approval shall show the design of the pipe penetration boot and include the following information:



- (1) manufacturer's name, address, phone and fax numbers, and contact name;
- (2) design specifications and materials used in the manufacture of pipe penetration boot components;
- (3) applicable testing results from third-party verification showing pull and flexibility testing;
- (4) documentation of a watertight seal around the piping and any component or device needed to ensure the seal, such as non-corrodible adjustable bands;
- (5) documentation that the pipe penetration boot meets the requirements of ASTM C1644 for precast concrete tanks or ASTM C1644, C923, or C564 for thermoplastic or glass-fiber-reinforced polyester tanks; and
- (6) specifications for application, installation, operation, and maintenance of the pipe penetration boot.

(g) Plans for prefabricated risers, effluent filters, and pipe penetration boots, other than those approved for general use and issued an approval letter under this Rule, shall be considered for approval on a case-by-case basis. The riser, effluent filter, or pipe penetration boot shall be approved if it is determined that it meets the requirements of this Rule based on information provided by the manufacturer to the Department.

*Authority G.S. 130A-335(e), (f), and (f1); 130A-335.1.*

**15A NCAC 18E .1405 RISERS, EFFLUENT FILTERS, AND PIPE PENETRATION BOOTS APPROVAL RENEWAL**

(a) All riser, effluent filter, and pipe penetration boot approvals shall expire on December 31 of each year. Riser, effluent filter, and pipe penetration boot manufacturers who wish to continue product approval shall submit annually a proprietary product renewal form provided by the Department no later than November 30 of each year.

(b) The approval renewal form shall include the following elements:

- (1) manufacturer's name, mailing address, phone and fax numbers, email address, and manufacturer's point of contact;
- (2) model number(s) approved; and
- (3) a notarized statement that the product has not changed from the previous year without prior approval from the Department.

(c) The Department shall notify the manufacturer of the pending riser, effluent filter, and pipe penetration boot Approval expiration in writing no later than September 30 of each year. The notification shall include information on how to request riser, effluent filter, and pipe penetration boot renewal.

(d) The riser, effluent filter, and pipe penetration boot approval shall be deemed renewed upon receipt of a renewal form that contains all of the elements set out in Paragraph (b) of this Rule.

*Authority G.S. 130A-335(e) and (f); 130A-343.*

**15A NCAC 18E .1406 MODIFICATION, SUSPENSION, AND REVOCATION OF APPROVALS**

The Department shall modify, suspend, or revoke the approval for tanks, risers, effluent filters, or pipe penetration boots upon a finding that:

- (1) the approval is determined to be based on false, incomplete, or misleading information;
- (2) the product has been altered;
- (3) the product fails to perform in compliance with performance standards established for the product in accordance with the rules of this Section; or
- (4) the product fails to meet conditions of its approval or comply with G.S. 130A, Article 11, Rule .1405 of this Section, this Subchapter, or conditions of the approval.

*Authority G.S. 130A-335(e), (f), and (f1).*

**SECTION .1500 – APPROVAL AND USE OF RESIDENTIAL WASTEWATER TREATMENT SYSTEMS**

**15A NCAC 18E .1501 GENERAL**

(a) RWTS that comply with NSF International Standard 40 for Class I residential wastewater treatment systems shall be designed, constructed, and installed in accordance with this Section to serve facilities with a DDF less than or equal to 1,500 gpd.

(b) RWTS shall only be used with DSE.

(c) RWTS shall bear one of the following to certify that the product is in accordance with NSF Standard 40:

- (1) the NSF mark and the NSF listed model number; or
- (2) the certification mark and listed model number of a third-party certification program accredited by ANSI to certify RWTS in accordance with NSF Standard 40.

(d) For approval of an RWTS as a PIA System, a manufacturer shall apply in accordance with Section .1700 of this Subchapter.

*Authority G.S. 130A-342.*

**15A NCAC 18E .1502 APPLICATION**

An application shall be submitted for RWTS approval in writing to the Department and shall include the following:

- (1) manufacturer's name, mailing address, phone number, email address, plant location(s), and contact information for distributors;
- (2) verification of NSF Standard 40 Class I system approval and listing by NSF International or other ANSI-accredited third-party certification program;
- (3) manufacturer's identifying name or logo, listed model number(s) and treatment capacity in gpd to be imprinted on unit;
- (4) three copies of plans and specifications, including information required to evaluate any

- tanks as required in accordance with Rule .1401 of this Subchapter; and
- (5) fee payment as required by G.S. 130A-343(k)(6), by corporate check, money order or cashier's check made payable to: North Carolina On-Site Water Protection Account or North Carolina OSWW System Account, and mailed to the Department.

*Authority G.S. 130A-342.*

**15A NCAC 18E .1503 DESIGN AND CONSTRUCTION STANDARDS**

RWTS shall meet the following design and construction standards:

- (1) No blockouts or openings shall be permitted below the liquid level of the RWTS.
- (2) RWTS shall be watertight, corrosion resistant structures, with all components requiring maintenance accessible to the Management Entity. Access openings shall be provided in the RWTS top. Access shall be provided for:
  - (a) cleaning or rodding out the inlet pipe;
  - (b) cleaning or clearing the air or gas passage space above any partition;
  - (c) pumping of each compartment required to be pumped;
  - (d) sampling the effluent; and
  - (e) repairing and maintaining any system components.
- (3) Tanks used in RWTS designed to hold sewage or effluent shall comply with all tank requirements in accordance with Section .1400 of this Subchapter.
- (4) RWTS shall bear an imprint identifying the manufacturer, the RWTS serial number assigned to the manufacturer's model approved by the Department, and the liquid or working capacity of the unit. The imprint shall be located on the outlet end of the tank within 24 inches of the top of the tank.
- (5) The design, construction, and operation of RWTS shall prevent bypass of wastewater.
- (6) The manufacturer shall ensure that the system can be sampled in compliance with 40 CFR 136 and shall specify the recommended method for effluent sampling.
- (7) Control panels provided by the manufacturer shall comply with the requirements for control panels in accordance with Rule .1103 of this Subchapter.
- (8) The RWTS shall have an alarm device or devices to warn the user or Management Entity of a unit malfunction or a high-water condition in accordance with Rule .1103 of this Subchapter.
- (9) The control panel shall include a method to automatically measure and record daily wastewater flow dispersed to the dispersal field

in accordance with Rule .1702(a)(2)(I) of this Subchapter.

- (10) The blower location shall be shown on the plans and detail proposed corrosion-resistant blower enclosures, if applicable.
- (11) A settling tank shall be required prior to or as an integral part of the design of the RWTS. The liquid capacity of the settling tank shall be a minimum of half of the DDF of the RWTS, or as otherwise specified by the manufacturer, whichever is larger. The settling tank may either be an integral chamber of the RWTS tank, a septic tank approved in accordance with Section .1400 of this Subchapter, or another tank designed for an individual system and approved by the Department as a part of the plans for the RWTS.

*Authority G.S. 130A-342.*

**15A NCAC 18E .1504 SAMPLING REQUIREMENTS FOR RESIDENTIAL WASTEWATER TREATMENT SYSTEMS**

Effluent from an approved RWTS shall be grab or 24-hour composite sampled annually for all effluent standards listed in Table XXV of Rule .1201(a) of this Subchapter for NSF-40 systems, unless adjusted sampling requirements have been requested and granted in accordance with Rules .1301 and .1709 of this Subchapter.

*Authority G.S. 130A-342.*

**15A NCAC 18E .1505 RESIDENTIAL WASTEWATER TREATMENT SYSTEM APPROVAL RENEWAL**

(a) All RWTS Approvals shall expire on December 31 of each year. RWTS manufacturers who wish to continue product approval shall submit annually a proprietary product renewal form provided by the Department no later than November 30 of each year.

(b) The renewal form shall include the following updated elements:

- (1) manufacturers' name, mailing address, phone and fax numbers, email address, and manufacturer's point of contact;
- (2) model number(s) approved;
- (3) a notarized statement that the product has not changed from the previous year without prior approval from the Department; and
- (4) verification of the manufacturer's continued certification and listing by a nationally recognized certification body, including compliance with NSF Standard 40.

(c) The Department shall notify the manufacturer of the pending RWTS Approval expiration in writing no later than September 30 of each year. The notification shall include information on how to request RWTS Approval renewal.

(d) The RWTS approval shall be deemed renewed upon receipt of a renewal form that contains all of the elements set out in Paragraph (b) of this Rule.

(e) The Department shall suspend or revoke a system approval upon a finding that the system fails to perform in compliance with established effluent standards in Table XXV of Rule .1201(a) of this Subchapter or as provided for in Rule .1708(b) of this Subchapter.

*Authority G.S. 130A-342.*

#### **SECTION .1600 – APPROVAL OF PRE-ENGINEERED PACKAGE DRIP DISPERSAL SYSTEMS**

##### **15A NCAC 18E .1601 GENERAL**

(a) Drip dispersal systems for DDF less than or equal to 3,000 gpd shall be configured as a package and approved as a PIA System in accordance with Section .1700 of this Subchapter.

(b) The integrated system package shall be provided from a single source manufacturer or system integrator, comprised of catalogued standardized design components that have been coordinated and tested by the manufacturer or integrator. Components shall include:

- (1) dispersal field pump(s) and floats;
- (2) headworks assemblies;
- (3) dispersal field piping network, drip tubing, and appurtenances; and
- (4) system controls that provide for automatic filter cleaning, timed field dosing, field flushing, alarm notification, and recording of system operation.

(c) All components shall be integrated and designed to operate together. The system manufacturer or integrator shall provide system design information including:

- (1) head loss charts, tables, or formulas for various drip tubing lateral lengths during a dosing and flushing cycle;
- (2) minimum and maximum zone size and design;
- (3) design plans and specifications for all components;
- (4) installation specifications; and
- (5) operation and maintenance manuals.

(d) The system manufacturer shall provide support to train and authorize designers, installers, Management Entities, regulators, and users.

(e) Drip dispersal system performance, siting, sizing, installation, operation, monitoring, maintenance and reporting requirements shall comply with Rules .0908, .1204, and Section .1300 of this Subchapter, as applicable, and the rules of this Section.

(f) Drip dispersal systems that are not pre-engineered packages approved in accordance with Section .1700 of this Subchapter shall be designed on a project specific basis by a PE and shall comply with Rules .0908, .1204, and Section .1300 of this Subchapter, as applicable, and the rules of this Section.

(g) Drip dispersal systems for DDF greater than 3,000 gpd shall comply with the design and performance requirements of this Section and shall be designed on a project specific basis by a PE. The system design shall be reviewed and approved by the Department in accordance with Rule .0302 of this Subchapter, unless the system is permitted in accordance with Rule .0207 of this Subchapter.

*Authority G.S. 130A-343.*

##### **15A NCAC 18E .1602 DESIGN AND CONSTRUCTION STANDARDS**

(a) Drip dispersal systems shall be preceded by pretreatment designed to comply with one of the following effluent standards: DSE, NSF-40, TS-I, TS-II, or RCW as specified in Table III of Rule .0402(a), Table XXV of Rule .1201(a), or Rule .1002, of this Subchapter, as applicable.

(b) The pump tank shall meet one of the following conditions:

- (1) a separate pump tank sized in accordance with Rule .0802 of this Subchapter; or
- (2) a pump tank or compartment that is part of an advanced pretreatment system approved in accordance with Section .1700 of this Subchapter.

Pump tank operating levels shall not result in effluent backing up into a part of any pretreatment component designed for free gravity flow drainage. All pump submergence, dose volume, flow equalization, and emergency storage capacity requirements for the dosing system shall be met without interfering in the performance of the pretreatment components.

(c) Pumps shall meet the following conditions:

- (1) have sufficient capacity to accommodate projected flow and total dynamic head conditions;
- (2) deliver 15 to 60 psi of pressure during dosing events;
- (3) provide minimum flow and pressure as required to backwash or forward flush headworks filter;
- (4) maintain velocities of two feet per second at the distal end of each drip lateral line during automatic field flushing for DSE; and
- (5) maintain velocities of one foot per second at the distal end of each drip lateral line during automatic field flushing for advanced pretreatment effluent. Valving shall be provided to achieve flushing velocities of two feet per second at the distal end of each dripline with manual flushing.

Pump manufacturer requirements shall be followed to protect the pump intake from solids that may accumulate in the pump tank and for pump cooling during operation.

(d) Headworks assemblies shall contain filtration, totalizing flow meter, provisions for filter cleaning, and field flushing valves. Zone and isolation valves may be located in the headworks assembly or in the drip dispersal field. The headworks assemblies shall meet the following conditions:

- (1) filters shall remove particles greater than 115 microns at the peak operating flow rate, during network forward flushing. Filter number and size shall operate during both dosing and flushing conditions at a pump operating flow rate within the filter manufacturer's specified acceptable operating range;
- (2) filters for drip dispersal systems receiving DSE shall be configured with two independently backwashed disk filters;

- (3) for drip dispersal systems receiving advanced pretreatment effluent, single or multiple screens or disc filters may be used, designed to be cleaned by either backwashing or forward washing;
- (4) filter cleaning and field flushing residuals shall be returned to the head of the septic tank or settling tank prior to being returned to the pretreatment unit;
- (5) a totalizing flow meter shall be used to record total flow through the system. The meter shall also be used to monitor pump operating flow rates during dosing and flushing events; and
- (6) the headworks and associated components shall be in a separate enclosure that is freeze protected, UV and corrosion resistant, and accessible for routine operation, maintenance, monitoring and servicing. Design shall facilitate access to all internal components.

(e) The drip dispersal field shall consist of one or more separately dosed zones comprised of a supply and return manifold, manifold to lateral connections, laterals containing drip tubing with emitters, blank sections of tubing, and associated field appurtenances. Drip emitter and associated field appurtenances design shall meet the following:

- (1) drip emitters shall be designed and demonstrated to uniformly distribute wastewater effluent at a pre-determined rate when operated in accordance with manufacturer's specified pressure range for emitter operation. Emitter design coefficient of variation, Cv, shall be five percent or less. Emitters shall be designed to be self-cleaning and to resist root intrusion. Hydraulic design of a drip dispersal zone shall be based upon achieving no more than a 10 percent variation in flow from any emitter over the entire zone, regardless of emitter elevation or position along the lateral including any effluent redistribution due to drainback;
- (2) drip emitters shall be pressure compensating unless the manufacturer and designer provide documentation and calculations that a maximum 10 percent flow variance allowance can otherwise be achieved with non-pressure compensating emitters in a PIA Approval or on a project-specific basis. Drip tubing shall be marked to identify the emitter type and flow rate;
- (3) drip emitters shall be spaced at uniform intervals along the tubing on 24-inch centers or less, and drip tubing with emitters shall be spaced an average of 24 inches on centers or less, in accordance with the proposed system design. Spacing shall be chosen as needed to ensure a sufficient number and density of emitters are present to achieve uniform distribution and instantaneous emitter loading

- rates that do not exceed the hydraulic capacity of the receiving infiltrative surfaces;
  - (4) connections between supply and return manifolds, and between runs or drip lateral sections installed at varying elevations or locations shall be made with solvent welded solid Schedule 40 PVC or flexible PVC;
  - (5) blanking sections of tubing without drip emitters shall be used where unfavorable site conditions, such as rocks, trees, or roots, are encountered along a drip run. Blanking tubing shall be a different color from the drip tubing or marked tubing of the same material, specification, and diameter as the connecting dripline, or flexible PVC;
  - (6) the manufacturer shall specify methods for drainback prevention; and
  - (7) field appurtenances shall include the following:
    - (A) air or vacuum relief valve at the highest elevation of each zone;
    - (B) cleanout at both ends of the supply and return manifolds;
    - (C) pressure monitoring fittings at the zone inlet and outlet points;
    - (D) pressure regulating valve where needed;
    - (E) for two or more zones: solenoid valves for each zone in the headworks or at the field, with an isolation valve on the supply line side; and a check valve with an isolation valve for each zone between the return manifold and the common return line; and
    - (F) valves, vents, cleanouts, and pressure monitoring fittings shall be provided with protective vaults or boxes that are decay resistant, ultraviolet rated, and accessible to the Management Entity from the ground surface.
- (f) An integrated controller shall be provided that meets the following conditions:
- (1) enable each drip dispersal field or zone to be time-dosed at equal intervals throughout the day, at a projected average flow, and to accommodate the DDF. The controller shall allow for adjustable and variable dose volumes between or among zones;
  - (2) adjust pump dosing and resting cycles to comply with system design and the projected range of operating conditions;
  - (3) provide a minimum dose volume per zone that is a minimum of five times the liquid capacity of the drip laterals or so 80 percent of each dose is delivered when the minimum pressure in the field network is 10 psi;
  - (4) provide for automatic cleaning of headworks filter(s);
  - (5) provide for adjustable automatic forward flushing, or field flushing, of the drip laterals

- (6) with filtered effluent, at designer and manufacturer-specified frequency and duration; provide for monitoring of pump cycles and run times;
- (7) include telemetry, in accordance with Rule .1103(c) of this Subchapter, for systems with a DDF greater than 1,500 gpd or as required in conjunction with an advanced pretreatment system;
- (8) for systems with a DDF greater than 3,000 gpd the controller shall monitor flow volume to each zone and provide a flow variance indication when flow is plus or minus 20 percent of design. The telemetry system and alarm shall be designed to be functional during power outages;
- (9) for multi-zone systems, the system controller shall provide for a zone to be rested or taken out of service manually. The controller shall have the capability to bypass zones and dose the next available zone with the normal dosing sequence continuing; and
- (10) controls and floats are to be configured to ensure the minimum dose is available prior to initiating a dosing cycle and to ensure that a full dose is delivered.

(g) Alternatives to the design criteria in this Rule may be proposed by the manufacturer during the PIA approval process or by a PE on a project-specific basis. These alternatives shall be reviewed and approved by the Department on a case-by-case basis when documentation is provided that the system will meet the performance standards of this Section.

*Authority G.S. 130A-343.*

#### **15A NCAC 18E .1603 DRIP DISPERSAL SYSTEM TESTING**

(a) The drip dispersal system field testing shall include system designer requirements and the following items:

- (1) all leaks in the pipe network or from emitters exhibiting excessive emission rates shall be repaired; and
- (2) after the system is pressurized, dosing and flushing flow rates and pressures for each zone shall be measured and confirmed to be in accordance with the design parameters as follows:
  - (A) dosing pressure shall be measured at the lowest point in the supply manifold and highest point in the return manifold;
  - (B) minimum and maximum emitter pressure shall be verified to be within emitter design parameters;
  - (C) flushing pressures shall be measured at the ends of each supply and return manifold within each zone;

- (D) dosing and flushing flow rates shall be measured with the flow meter after the system is pressurized; and
- (E) all dosing and flushing flow rates and pressures shall be recorded.

(b) All components shall be demonstrated to be operable and in accordance with their design during the inspection by the LHD.

*Authority G.S. 130A-343.*

### **SECTION .1700 – APPROVAL AND PERMITTING OF WASTEWATER SYSTEMS, TECHNOLOGIES, COMPONENTS, OR DEVICES**

#### **15A NCAC 18E .1701 GENERAL**

PIA Systems are any wastewater systems, system components, or devices as defined by G.S. 130-343(a) that are not described in other Sections of this Subchapter and systems for which any of the following are proposed:

- (1) reduced setbacks;
- (2) reduced depth to LC or vertical separation requirements; or
- (3) increased LTAR.

This Section shall provide for the approval and permitting of PIA Systems.

*Authority G.S. 130A-335(e) and (f); 130A-343.*

#### **15A NCAC 18E .1702 APPLICATION**

(a) An application shall be submitted in writing to the Department for a PIA System. All applications shall include the information required by G.S. 130A-343(d), (f), (g), (g1), and (h), and the following, as applicable:

- (1) identification of the type of PIA Approval requested:
  - (A) Provisional;
  - (B) Innovative;
  - (C) Functionally Equivalent;
  - (D) Accepted; or
  - (E) a combination of any of the above;
- (2) plans and specifications for the system, including the following:
  - (A) description of the system;
  - (B) materials used in construction;
  - (C) proposed use of system;
  - (D) system design criteria;
  - (E) system design and drawings;
  - (F) installation manual;
  - (G) operation and maintenance manual, including a checklist for documentation of inspection and maintenance activities and the VIP;
  - (H) influent and effluent sampling locations for advanced pretreatment systems while the system remains in operation;
  - (I) method for automatically measuring and recording daily wastewater flow

- (J) dispersed to the dispersal field for advanced pretreatment systems; and
- (3) the following information:
  - (A) product specific literature;
  - (B) published research; and
  - (C) previous experience and performance with the system;
- (4) results of any available testing, research or monitoring of pilot systems or full-scale operational systems including:
  - (A) identification of the third-party research or testing organization that conducted the testing, research, or monitoring provided;
  - (B) documentation that the protocol or evaluation used in the testing, research, or monitoring is:
    - (i) established by a nationally recognized certification body;
    - (ii) a listed protocol that has been approved by the Department in accordance with G.S. 130A-343(d);
    - (iii) a comparable evaluation protocol used for system approval in other states. The comparable evaluation protocol shall include information on relevant conditions such as wastewater system design, soil types, climate, and hydrology and be reviewed by the Department; or
    - (iv) in accordance with an alternative performance evaluation protocol proposed by the manufacturer for approval;
  - (C) documentation that the system is tested, certified, and listed by a nationally recognized certification body and complies with an ongoing verification program administered by that certification body, as applicable; and
  - (D) documentation that the system can be sampled in compliance with 40 CFR 136 and that the method for system sampling monitors system compliance with effluent standards;
- (5) verification that the product submitted for PIA Approval is the same as the certified, listed, or tested product, and if not, identification of any modifications made to the submitted product;
- (6) notification of any proprietary or trade secret information, system, component, or device. All

- documents received are considered Public Records in accordance with G.S. 132-1, unless they meet the criteria for classification as a trade secret as defined in G.S. 66-152(3);
- (7) draft written PIA Approval that includes criteria for site selection, installation requirements, operation and maintenance procedures including a VIP protocol with compliance criteria, system classification, frequency of system inspection and monitoring in accordance with Table XXXII of Rule .1301(b) of this Subchapter, and minimum certification or licensing requirements as set forth in applicable certification and licensing rules and statutes for designers, installers, and Management Entities; and
- (8) fee payment as required by G.S. 130A-343(k), by corporate check, money order or cashier's check made payable to: North Carolina On-Site Water Protection System Account or North Carolina OSWW System Account, and mailed to the Department. Fees received are non-refundable.
- (b) Innovative System applications shall include the information listed in Paragraph (a) of this Rule.
- (c) Provisional System applications shall include the information listed in Paragraph (a) of this Rule and an evaluation protocol containing all information set forth in G.S. 130-343(f), including:
  - (1) identity and qualifications of the proposed third-party evaluator, including documentation of their third-party status;
  - (2) description of the evaluation protocol, including any proposed laboratory and field testing;
  - (3) number of systems to be installed;
  - (4) site selection criteria;
  - (5) system monitoring and reporting procedures, and proposed duration of evaluation; and
  - (6) any other information needed for the system to be able to achieve Innovative status upon completion of the Provisional System evaluation protocol.
- (d) Functionally Equivalent Trench System Innovative applications shall include the information listed in Paragraph (a) of this Rule and documentation that the manufacturer has petitioned the Commission for Public Health in accordance with G.S. 130A-343(g1).
- (e) Accepted System applications shall include the information listed in Paragraph (a) of this Rule and documentation that the manufacturer has petitioned the Commission for Public Health in accordance with G.S. 130A-343(h).

*Authority G.S. 130A-335(e) and (f); 130A-343.*

#### **15A NCAC 18E .1703 DEPARTMENT AND COMMISSION APPLICATION REVIEW**

- (a) The Department shall review all applications submitted to determine if the information listed in Rule .1702 of this Section is

included and determine whether additional information is needed to continue the review.

(b) Within 30 days of receipt of the initial application, the Department shall notify the manufacturer of any items necessary to complete the application or notify the manufacturer that the application is complete. This determination shall not constitute a qualitative review of the information provided, nor the approval or denial of the proposed system designation. Specified additional information shall be received within 180 days or the application file shall be closed.

(c) Upon receipt of a complete application, the Department shall conduct a qualitative review in accordance with PIA Approval criteria identified in Rules .1704, .1705, and .1706 of this Section, as applicable.

(d) For systems that are certified and listed by a nationally recognized certification body, the Department shall complete its review and determine whether to approve or deny Provisional System applications within 90 days of receipt of a complete application.

(e) The Department shall complete its review and determine whether to approve or deny Innovative System applications within 90 days of publication in the North Carolina Register of the notice of receipt of a complete application.

(f) The Department shall prepare and submit its findings and recommendations for a Functionally Equivalent Trench System or an Accepted System to the Commission within 120 days of receipt of a complete application.

(g) Upon request by the petitioner, the Commission may modify the 180-day time frame for receipt of additional information specified by the Department for a Functionally Equivalent Trench System or Accepted System petition based on a determination that a petition is incomplete and additional information is needed. The petitioner may also request Commission review of the Department's determination that a petition is incomplete or additional information request.

(h) The Department shall notify the applicant and LHDs of the approval or denial of a PIA System. The PIA Approval shall include conditions for permitting, siting, installation, use, monitoring, operation and maintenance, and number of systems that can be installed. When an application is denied, the Department shall inform the applicant in writing of the reason for denial. The Department shall assign a unique code to the approved products for tracking purposes.

(i) An applicant may reapply in accordance with this Section. When reapplying, a new application shall be required and the applicant shall make a new fee payment as required by G.S. 130A-343(k).

*Authority G.S. 130A-335(e) and (f); 130A-343.*

#### **15A NCAC 18E .1704 APPROVAL CRITERIA FOR PROVISIONAL SYSTEMS**

(a) A dispersal system shall be approved for use as a Provisional System when the following criteria have been met:

- (1) documentation of one of the following is provided:
  - (A) a minimum of 50 installations that have been in use for a minimum of 12 months, with available information

indicating comparable hydraulic performance and rate of malfunction to a conventional trench system;

- (B) the system's design is functionally similar to another approved system described elsewhere in this Subchapter, or to a PIA System approved in accordance with this Section. The system's design and functional similarity shall be equal or superior to the approved comparable system for the following: material physical properties and chemical durability; field installed permeable sidewall area and bottom infiltrative area; method and manner of function for conveyance and application of effluent; structural integrity; and field installed storage volume;

- (C) the system has been certified and listed by a nationally recognized certification body, as defined by G.S. 130A-343(a)(6), for a period that exceeds one year; or

- (D) the system has complied with a comparable evaluation protocol used for system approval in other states. The comparable evaluation protocol shall include information on relevant conditions such as wastewater system design, soil and site conditions, climate, and hydrology and be reviewed by the Department;

- (2) documentation of load testing is provided that demonstrates the structural integrity to be comparable to a conventional trench system, including subjecting the trench system to the following without collapsing, fracturing, or breaking when installed in a trench with the proposed product configuration and width:

- (A) an axle load of 16,000 pounds when covered with 12 inches of compacted soil; and

- (B) an axle load of 4,000 pounds when covered with six inches of compacted soil; and

- (3) a proposed evaluation protocol to be overseen by a third-party evaluator is submitted to the Department for review. The evaluation protocol shall ensure that all information necessary to satisfy the criteria to achieve Innovative Approval, as specified in G.S. 130A-343(f) and Rule .1705 of this Section, is collected. The protocol shall include the following:

- (A) a minimum of 100 installations operational and in use for a minimum of 12 months; and

- (B) sufficient information collected to evaluate the system's hydraulic

performance, structural integrity and rate of malfunction compared with a conventional trench system.

(b) Advanced pretreatment systems shall be approved for use as a Provisional System when the following criteria have been met:

(1) documentation of one of the following is provided for designs complying with TS-I, TS-II, or RCW effluent standards:

(A) a minimum of 50 complete third-party field verification data sets from a minimum of 15 sites that have been in use for six months, including all constituents necessary to verify compliance with the applicable effluent standard. Two to five data sets may be from the same site if collected a minimum of three months apart, with no data excluded from the field sampling sites. The data sets shall demonstrate compliance with TS-I, TS-II, or RCW effluent standards in accordance with Rule .1710 of this Section;

(B) the system's design is functionally similar to another approved system described elsewhere in this Subchapter, or to a Provisional or Innovative System approved in accordance with this Section. The system's design and functional similarity shall be equal or superior to the comparable system for all of the following: material physical properties and chemical durability; structural integrity; biological, chemical, or physical treatment processes; method and manner of function for conveyance and application of effluent through the system; and number and size of system compartments;

(C) the system has been certified and listed by a nationally recognized certification body, as defined by G.S. 130A-343(a)(6), for a period that exceeds one year; or

(D) the system has complied with a comparable evaluation protocol used for system approval in other states. The comparable evaluation protocol shall include information on relevant conditions such as wastewater system design, soil types, climate, and hydrology and be reviewed by the Department; and

(2) a proposed evaluation protocol to be overseen by a third-party evaluator is submitted to the Department for review. The evaluation protocol shall ensure that all information necessary to

satisfy the criteria to achieve Innovative Approval, as specified in G.S. 130A-343(f) and Rule .1705 of this Section, is collected. The protocol shall include one of the following:

(A) for a system that has been certified and listed by a nationally recognized certification body, as defined by G.S. 130A-343(a)(6) for a period that exceeds two consecutive years, a minimum of 50 complete third-party field verification data sets from a minimum of 15 sites in operation for a minimum of six months, including all constituents necessary to verify compliance with the applicable effluent standard. Two to five data sets may be from the same site if collected a minimum of three months apart, with no data excluded from the field sampling sites. The data may be collected from systems in-state or out-of-state. The data sets shall show compliance with TS-I, TS-II, or RCW effluent standards in accordance with Rule .1710 of this Subchapter, as applicable; or

(B) a minimum of 150 complete third-party field verification data sets from a minimum of 50 sites in operation for a minimum of six months, including all constituents necessary to verify compliance with the applicable effluent standard. Two to five data sets may be from the same site if collected a minimum of three months apart, with no data excluded from the field sampling sites. The data may be collected from systems in-state or out-of-state. The data sets shall demonstrate compliance with TS-I, TS-II, or RCW effluent standards in accordance with Rule .1710 of this Section, as applicable.

(c) Manufacturers requesting Provisional Approval as both an advanced pretreatment and dispersal system shall meet the requirements for advanced pretreatment and dispersal as described in this Rule.

*Authority G.S. 130A-335(e) and (f); 130A-343.*

#### **15A NCAC 18E .1705 APPROVAL CRITERIA FOR INNOVATIVE SYSTEMS**

(a) A dispersal system shall be approved for use as an Innovative System when the following criteria have been met:

(1) the performance requirements for an Innovative System identified in G.S. 130A-343(a)(5) and (g) have been met;

(2) materials used in construction are equal or superior in physical properties, chemical



- (3) durability, and structural integrity compared to materials used for similar proposed systems described in other Sections of this Subchapter; the system has been demonstrated to perform equal or superior to a system that is described in other Sections of this Subchapter or to an Innovative or Accepted System previously approved in accordance with this Section, based upon controlled pilot-scale research studies or statistically valid monitoring of full-scale operational systems;
- (4) the system has met one of the following criteria:
- (A) the system has completed an evaluation protocol as a Provisional System in accordance with Rule .1704 of this Section;
- (B) the manufacturer has provided comparable third-party research and testing conducted in other states, with the data and findings of all evaluations of the system performance, that support the proposed use of the system. The comparable research shall include information on relevant conditions, such as wastewater system design, soil and site conditions, climate, and hydrology; or
- (C) the system has been evaluated in accordance with G.S. 130A-343(g)(3); and
- (5) the following documentation is provided:
- (A) load testing that demonstrates the structural integrity to be comparable to a conventional trench system, including subjecting the trench system to an axle load of 16,000 pounds when covered with 12 inches of compacted soil and an axle load of 4,000 pounds when covered with six inches of compacted soil without collapsing, fracturing, or breaking;
- (B) a minimum of 100 installations operational and in use for a minimum of one year. The 100 installations sites may include any combination of systems installed in conjunction with an approved Provisional System evaluation completed in North Carolina and systems in other states; and
- (C) system hydraulic performance and rate of malfunction is equal or superior to the demonstrated performance of a conventional trench system.

(b) Advanced pretreatment systems complying with TS-I, TS-II, or RCW effluent standards shall be approved for use as an Innovative System when the following information is provided:

- (1) information required in Subparagraphs (a)(1) through (a)(4) of this Rule; and

- (2) documentation of one of the following:
- (A) for a system that has been certified and listed by a nationally recognized certification body, as defined by G.S. 130A-343(a)(6) for a period that exceeds two consecutive years, a minimum of 50 complete third-party field verification data sets from a minimum of 15 sites in operation for a minimum of six months, including all constituents necessary to verify compliance with the applicable effluent standard. Two to five data sets may be from the same site if collected a minimum of three months apart, with no data excluded from the field sampling sites. The data may be collected from systems in-state or out-of-state. The data sets shall demonstrate compliance with TS-I, TS-II, or RCW effluent standards in accordance with Rule .1710 of this Section; or
- (B) a minimum of 150 complete third-party field verification data sets from a minimum of 50 sites in operation for a minimum of six months, including all constituents necessary to verify compliance with the applicable effluent standard. Two to five data sets may be from the same site if collected a minimum of three months apart, with no data excluded from the field sampling sites. The 50 sites may include a combination of sites monitored in conjunction with an approved Provisional System evaluation completed in North Carolina and sites in other states. The data sets shall demonstrate compliance with TS-I, TS-II, or RCW effluent standards in accordance with Rule .1710 of this Section.
- (c) Manufacturers requesting Innovative Approval as both an advanced pretreatment and dispersal system shall meet the requirements for advanced pretreatment and dispersal as described in this Rule.

*Authority G.S. 130A-335(e) and (f); 130A-343.*

#### **15A NCAC 18E .1706 APPROVAL CRITERIA FOR ACCEPTED SYSTEMS**

(a) The Commission shall designate a wastewater dispersal system as an Accepted System when it finds based on the information provided in accordance with this Rule that the standards set forth by G.S. 130A-343(a)(1) and G.S. 130A-343(h) have been met.

(b) The following information shall be provided by the petitioner and reviewed by the Commission prior to granting Accepted System status:

- (1) documentation of a minimum of 300 systems installed statewide and in use for more than five years as an approved Innovative System or a wastewater dispersal system identified in the rules of this Subchapter;
- (2) data and findings of all prior evaluations of the system performance as provided by the manufacturer;
- (3) results of prior performance surveys of the systems in use in North Carolina for at least the five-year period immediately preceding the petition, including any information available to the manufacturer pertinent to the accuracy and validity of performance surveys not completed under their control;
- (4) review(s) of records on system use and performance reported by LHDs, authorized designers, installers, and Management Entities documenting the experiences with performance of the system in North Carolina, including information collected and reported in accordance with Rules .1711 and .1713 of this Section. The Department, in consultation with the manufacturer, shall evaluate the accuracy and validity of performance data and surveys considered for inclusion in the review. LHDs and other stakeholders shall be invited to participate in the discussion; and
- (5) the results of a statistically valid survey of system performance in North Carolina in accordance with Paragraphs (d) or (g) of this Rule.

(c) The manufacturer shall propose a plan for the statistically valid survey. The Department shall concur with the proposed survey plan prior to the survey being performed. The plan shall specify the following information:

- (1) number of systems to be evaluated;
- (2) period of evaluation;
- (3) method to randomly select systems to be evaluated;
- (4) methods of field and data evaluation; and
- (5) proposed survey team members, including proposed cooperative arrangements to be made with Department and LHD staff.

(d) The proposed survey shall meet one of the following survey protocols:

- (1) a field survey of test and control systems that compares the failure rates between the systems. Statistical analysis of the survey results using a one-sided test shall document at the 95 percent confidence level that there is a five percent or less chance that a difference in failure rates of five percentage points or more would occur by chance. The field survey shall meet the following criteria:

- (A) a minimum of 250 randomly selected test and control systems that have been in operation for at least two years and are currently in use, for a total of at least 500 systems that are surveyed;
- (B) a minimum of 40 percent of both test and control systems shall have been in operation for at least five years;
- (C) systems surveyed shall be distributed among the Soil Groups in the Coastal, Piedmont, and Mountain regions of the State in approximate proportion to their use across the State;
- (D) systems shall be evaluated from February 1 through April 15; and
- (E) similar numbers of test and control systems of similar ages shall be surveyed during similar time periods across the State; or

- (2) a field survey of test systems only. The failure rate determined by the field survey shall not exceed seven percent at the 95 percent confidence level. The field survey for test systems only shall meet the following criteria:

- (A) the system is identified in the rules of this Subchapter and the manufacturer provides documentation that there have been at least 3,000 operational systems installed in the state in more than one county. The systems shall have been installed over at least an eight-year period with a total reported failure rate statewide of less than two percent. The statewide failure rate is based on records provided by the manufacturer and monthly activity reports from the LHD;
- (B) a minimum of 250 randomly selected systems that are currently in operation are surveyed; and
- (C) the survey criteria in Subparagraph (d)(1) of this Rule are met.

(e) The Department shall facilitate LHD participation with any performance review or survey.

(f) The Department shall utilize the Division of Public Health's State Center for Health Statistics for assistance in evaluating the statistical validity of the proposed evaluation protocols.

(g) Other criteria for determining whether the test system has been in general use and other survey protocols, which evaluate different numbers of test and control systems or test systems only, may be approved by the Department. The survey protocol shall be designed to verify equal or superior performance of the test system when compared to the control system under actual field conditions in North Carolina. The alternative survey protocol shall be demonstrated to have comparable statistical validity as described in Subparagraph (d) of this Rule. The Department's review and approval of proposed alternate criteria for determining whether the system has been in general use or alternative survey

protocols are subject to review and concurrence by the Commission.

(h) The Commission shall impose any use, design, installation, operation, maintenance, monitoring, and management conditions in accordance with G.S. 130A-343.

*Authority G.S. 130A-335(e) and (f); 130A-343; S.L. 2014-120, s.47; S.L. 2019-151, s.13.*

**15A NCAC 18E .1707 DESIGN AND INSTALLATION CRITERIA FOR PROVISIONAL, INNOVATIVE, AND ACCEPTED APPROVALS**

All products approved under this Section shall be designed and installed in accordance with the requirements of the PIA Approval.

*Authority G.S. 130A-335(e) and (f); 130A-343.*

**15A NCAC 18E .1708 MODIFICATION, SUSPENSION, AND REVOCATION OF APPROVALS**

(a) The Department may modify the PIA Approval of a system as provided for in G.S. 130A-343(c) and as follows:

- (1) to comply with subsequent changes in laws or rules which affect their approval;
- (2) based upon a written application from the manufacturer of an approved Provisional or Innovative System that seeks to modify their system or its conditions of approval, including siting or sizing criteria. If the manufacturer demonstrates that the modified system will perform in a manner equal or superior to the approved system in terms of structural integrity, chemical durability, hydraulic performance, and wastewater treatment, the Department shall approve the modified system with the same status as the previously approved system; or
- (3) based upon a written application from the manufacturer of an approved Accepted System that seeks to modify their system or its conditions of approval, including siting or sizing criteria. The manufacturer shall demonstrate that the modified system will perform in a manner equal or superior to the approved system in terms of structural integrity, chemical durability, hydraulic performance, and wastewater treatment. The Commission shall approve proposed modifications to Accepted Systems when it finds based on the information provided in accordance with this Rule that the standards set forth by G.S. 130A-343(a)(1) and G.S. 130A-343(h) have been met.

(b) The Department shall suspend or revoke the PIA Approval of a system as provided for in G.S. 130A-343(c) and as follows:

- (1) the advanced pretreatment system fails to comply with the compliance criteria in Rule .1710 of this Section;
- (2) the modified system fails to perform in a manner equal or superior to the previously approved PIA System;

(3) the system fails to comply with the conditions of its PIA Approval or comply with applicable laws and rules; or

(4) the manufacturer loses their approval or discontinues their listing by any nationally recognized certification body, if applicable. The manufacturer shall notify the Department in writing within 30 days of any changes in their approval status with a nationally recognized certification body.

(c) The Commission shall modify, suspend, or revoke its approval of a modified Accepted System if the modified system or component fails to perform in a manner equal or superior to the previously approved system. The Department shall notify the Commission of any action required for Commission approval of any modifications to the status of an Accepted System.

(d) Modification, suspension, or revocation of a PIA Approval shall not affect systems previously installed in accordance with the approval.

*Authority G.S. 130A-335(e) and (f); 130A-343; S.L. 2014-120, s.47.*

**15A NCAC 18E .1709 WASTEWATER SAMPLING REQUIREMENTS FOR ADVANCED PRETREATMENT SYSTEMS**

(a) Wastewater sampling requirements shall vary in accordance with wastewater system classification, designated effluent standard, DDF, and performance history.

- (1) Provisional Systems shall be grab or composite sampled quarterly for all applicable influent and effluent constituents listed in Table XXV of Rule .1201(a) of this Subchapter until the system receives Innovative Approval.
- (2) When the DDF is less than or equal to 1,500 gpd, Innovative Systems shall be grab or composite sampled annually for all applicable influent and effluent constituents from Table XXV of Rule .1201(a) of this Subchapter.
- (3) When the DDF is greater than 1,500 gpd and less than or equal to 3,000 gpd, Innovative Systems shall be grab or composite sampled twice a year for all applicable influent and effluent constituents listed in Table XXV of Rule .1201(a) of this Subchapter.
- (4) Sampling for Fecal Coliforms shall not be required for Innovative Systems at any site that is found to be compliant with all other constituents in Table XXV of Rule .1201(a) of this Subchapter.
- (5) Innovative Systems serving vacation rentals subject to the North Carolina Vacation Rental Act, G.S. 42A, shall be sampled during the seasonal high use period.
- (6) Effluent may be re-sampled within 30 days of receipt of laboratory results indicating non-compliance with Table XXV of Rule .1201(a) of this Subchapter if requested by the owner, manufacturer, or manufacturer's representative.

or required in a PIA Approval. Complete data sets from resampling may be substituted to comply with the minimum number of compliant data sets required for PIA Approval. Data sets from resampling may be used by a manufacturer as part of a reduced effluent sampling request in accordance with Paragraph (d) of this Rule.

- (7) The Management Entity may record daily wastewater flow and sample influent to the advanced pretreatment system as needed to determine compliance with Rule .1302(f) of this Subchapter.
- (8) A manufacturer of a Provisional or Innovative System may apply for adjusted sampling requirements in accordance with this Rule.

(b) The manufacturer of a Provisional System may apply to the Department in accordance with Rule .1701 of this Section to request adjusted effluent sampling requirements for Fecal Coliforms. The Department shall approve the request when the documentation submitted to the Department includes the following information:

- (1) data from a minimum of five separate North Carolina sites in operation for a minimum of six months after the Provisional Approval has been issued;
- (2) a minimum of 25 data sets, including results for Fecal Coliforms. No data sets shall be excluded. Data sets may be from the same site if collected a minimum of three months apart; and
- (3) analysis indicating compliant system performance in accordance with Rule .1710 of this Section.

(c) If an effluent sample for a Provisional or Innovative System that is not required to sample for Fecal Coliforms is determined to be non-compliant with Table XXV of Rule .1201(a) of this Subchapter, the effluent may be re-sampled in accordance with Rule .1302(f)(2) of this Subchapter. If re-sampled, the effluent shall also be sampled for Fecal Coliforms in addition to all other applicable constituents. If re-sampling indicates compliance with Table XXV of Rule .1201(a) of this Subchapter, no further Fecal Coliform sampling is required from that site, unless an effluent sample is again determined to be non-compliant for one or more constituents.

(d) The manufacturer of an Innovative System may apply to the Department in accordance with Rule .1701 of this Section to request an adjustment in sampling requirements for constituents or frequency, including reducing to field parameters only. The Department shall approve the request when one of the following conditions are met:

- (1) documentation submitted to the Department includes the following information:
  - (A) data from a minimum of 25 separate North Carolina sites in operation for a minimum of six months after the Innovative Approval has been issued;
  - (B) written reports summarizing results of the VIP inspections for all North

Carolina sites submitted as part of this Rule;

- (C) a minimum of 50 complete data sets, with no data excluded. Data sets may be from the same site if collected a minimum of three months apart;
  - (D) analysis indicating compliant system performance in accordance with Rule .1710 of this Section; and
  - (E) identification of the constituents for which the manufacturer requests a reduced sampling frequency;
- (2) the proprietary advanced pretreatment system is also certified and listed by a nationally recognized certification body and is in compliance with the ongoing verification program of such body, and the manufacturer is requesting a reduction in data set requirements set forth in Rule .1705 of this Section by up to 50 percent only; or
  - (3) the manufacturer has demonstrated compliant system performance in accordance with Rule .1710 of this Section and is only requesting to replace the requirement for routine effluent sampling as set forth in Rule .1705 of this Section for all individual sites with routine field constituent testing that is included as part of the VIP.

(e) Systems approved for field parameters shall only be required to sample the field parameters listed in Table XXXIII at the site during a VIP Management Entity inspection. The PIA Approval may specify other field parameters or alternative field parameter effluent criteria. The results shall be recorded in the written report. If the field parameters fall outside the range specified in the PIA Approval, an effluent sample shall be collected and analyzed for all parameters as necessary to demonstrate system compliance with the site's applicable effluent standard specified in Table XXV of Rule .1201(a) of this Subchapter.

**TABLE XXXIII.** Field parameters advanced pretreatment systems

Field Parameter	Effluent Criteria
pH	5 - 9
Turbidity	≤ 10
DO	≥ 2

(f) While routine sampling of individual sites may no longer be required in accordance with Paragraph (d) of this Rule, effluent sampling may still be determined to be necessary during the visual inspection of the system in accordance with Rule .1302(d) of this Subchapter or if required as part of an enforcement action by the LHD or the Department.

(g) Alternative sampling requirements may be proposed by the manufacturer for a Provisional or Innovative System and approved by the Department when determined to provide an equal or more reliable indication of system compliance with effluent standards.

*Authority G.S. 130A-335(e) and (f); 130A-343.*

**15A NCAC 18E .1710 COMPLIANCE CRITERIA FOR ADVANCED PRETREATMENT SYSTEMS**

An approved system shall be considered in compliance with the effluent standards of Rule .1002 or Table XXV of Rule .1201(a) of this Subchapter when all the following conditions are met:

- (1) the arithmetic mean for BOD<sub>5</sub>, TSS, TKN, and TN and the geometric mean for Fecal Coliform for all data collected from all sites does not exceed the designated effluent standard;
- (2) no more than 20 percent of all data from all sites shall exceed the designated effluent standard for any applicable constituent. A new complete data set for re-sampling conducted within 30 days of receipt of a non-compliant data set may be substituted to demonstrate compliance with the designed effluent quality standard in accordance with Table XXV of Rule .1201(a) of this Subchapter;
- (3) fifty percent of all complete data sets from all sites shall comply with the designated effluent standard for all applicable constituents;
- (4) when determining compliance with system effluent standards in Items (1), (2), and (3) of this Rule, no data sets shall be excluded from individual advanced pretreatment systems except at single sites found to be out of compliance in accordance with Rule .1302(f) of this Subchapter and that have been documented to have been subjected to abuse, such as hydraulic or organic overloading, physical damage to the system, or discharge of deleterious substances; and
- (5) results of influent samples from all sites shall be provided to demonstrate compliance with percent reduction effluent criteria in accordance with Table XXV in Rule .1201(a) of this Subchapter.

*Authority G.S. 130A-335(e) and (f); 130A-343.*

**15A NCAC 18E .1711 PROVISIONAL AND INNOVATIVE APPROVAL RENEWAL**

(a) All PIA Approvals shall expire on December 31 of each year. PIA manufacturers or other parties who wish to continue product approval shall submit annually a product renewal form provided by the Department no later than November 30 of each year.

(b) The renewal form shall include the following updated elements:

- (1) company or organization's name, mailing address, phone and fax numbers, email address, and manufacturer's point of contact;
- (2) model number(s) approved; and
- (3) a notarized statement that the product(s) has not changed from the previous year without prior approval from the Department.

(c) The Department shall notify the manufacturer of the pending PIA Approval expiration in writing no later than September 30 of

each year. The notification shall include information on how to request PIA Approval renewal.

(d) Manufacturers of proprietary products with Provisional Approvals shall additionally submit with its renewal form an annual report to the Department with the following information:

- (1) list of all systems installed under the Provisional Approval;
- (2) results of all effluent samples collected, as applicable;
- (3) copies of all Management Entity inspection reports, as applicable;
- (4) assessment of system performance in relation to this Subchapter;
- (5) summary of progress made to complete installations, research, and testing as outlined in the approved evaluation protocol;
- (6) any conditions and limitations related to the use of the system; and
- (7) a list of all authorized designers, installers, and management entities.

(e) A PIA Approval shall be deemed to be renewed upon receipt of a renewal form that contains all of the elements set out in Paragraph (b) of this Rule and annual report in accordance with Paragraph (d) of this Rule.

(f) The Department shall review all annual reports for Provisional Approvals for compliance with its PIA approval conditions, including its approved evaluation protocol, and determine whether any action to modify, suspend, or revoke the approval is warranted in accordance with Rule .1708 of this Section.

*Authority G.S. 130A-335(e) and (f); 130A-343.*

**15A NCAC 18E .1712 AUTHORIZED DESIGNERS, INSTALLERS, AND MANAGEMENT ENTITIES**

(a) Designers, installers, and Management Entities shall be authorized in writing by the manufacturer when required in the PIA Approval based on product specific factors, such as wastewater system classification, designated effluent standard, DDF, wastewater strength, complexity, and operation and maintenance.

(b) Manufacturers of proprietary systems approved under this Section shall provide a list of manufacturer's authorized designers, installers, and Management Entities, as specified in the PIA Approval, to the Department and LHDs. The manufacturers shall update this list annually and include it with the product renewal form required in accordance with Rule .1711(a) of this Section.

*Authority G.S. 130A-335(e) and (f); 130A-343.*

**15A NCAC 18E .1713 LOCAL HEALTH DEPARTMENT RESPONSIBILITIES**

To implement this Section the LHD shall:

- (1) When a Provisional System is proposed, confirm that the designated repair system complies with the provisions of Rule .0508 of this Subchapter and with individual PIA Approval requirements, except:
  - (a) when an existing wastewater system is available for immediate use, including

- connection to a public or community wastewater system;
    - (b) when the Provisional System is used as a repair to an existing malfunctioning system when there are no other approved Innovative or Accepted repair options; or
    - (c) as provided in G.S. 130A-343(f) for Provisional Systems.
  - (2) Notify the Department of all IPs, CAs, and OPs issued for Provisional Systems.
  - (3) Notify the Department of all OPs issued for Innovative Systems.
  - (4) Permit systems designated as Accepted Systems in an equivalent manner to a conventional system at the owner's request. The Accepted System shall be sited and sized in accordance with Section .0900 of this Subchapter or PIA Approval. The type of Accepted System installed shall be indicated on the OP. The owner shall re-apply to the LHD and receive a new or revised IP or CA for any of the following before system installation:
    - (a) location of any part of the dispersal field outside of the approved initial dispersal field area;
    - (b) changes to the trench depth, and slope correction if applicable, specified on the IP or CA;
    - (c) changes to the effluent distribution method; or
    - (d) changes to the DDF or wastewater strength.
  - (5) Grant permit reductions in total trench length less than or equal to 25 percent for Innovative or Accepted Systems only to dispersal fields receiving DSE or better quality. A facility with a full kitchen shall not be granted a permit reduction in total trench length.
  - (6) Grant facilities generating HSE the 25 percent reduction allowed for Innovative or Accepted Systems if the system includes an approved advanced pretreatment system designed to ensure effluent strength equal to or better than DSE.
  - (7) Prohibit issuance of an OP for a proprietary system installed by a person not authorized by the manufacturer, unless the manufacturer of the proprietary system approves the installation in writing.
  - (8) Inform the Department, as well as the manufacturer or their authorized representative, of any system determined to be malfunctioning. If the system has been permitted in accordance with G.S. 130A-336.1 or G.S. 130A-336.2 and Rule .0207 of this Subchapter, the LHD shall instruct the owner to contact the PE or AOWE for determination of the reason and the

- malfunction and development of an NOI for repairs.
  - (9) Issue a NOV to the owner when the system is determined to be malfunctioning in accordance with Rule .1303(a)(1) and (2) of this Subchapter or when an individual advanced pretreatment system at a single site is out of compliance in accordance with Rule .1302(f) of this Subchapter. The notice shall identify the violations and steps necessary to remedy the problems, including modification of the system, established time frame to achieve compliance, other follow-up requirements, and specify further enforcement possibilities if compliance is not achieved.
  - (10) Include in its monthly activity report submitted to the Department the following information identified by unique codes:
    - (a) number of new system OPs issued for PIA Systems;
    - (b) number of new system OPs issued for Accepted Systems;
    - (c) number of CAs issued for Provisional Systems, including system type;
    - (d) number of CAs issued for repairs of PIA Systems, including system type being repaired;
    - (e) number of CAs issued for repairs of Accepted Systems, including system type being repaired; and
    - (f) repair system type.

Authority G.S. 130A-335(e) and (f); 130A-343.

## TITLE 19A – DEPARTMENT OF TRANSPORTATION

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Department of Transportation - Division of Motor Vehicles intends to amend the rules cited as 19A NCAC 03D .0221, .0224, .0226, .0526, readopt without substantive changes the rules cited as 19A NCAC 03D .0223, .0225, .0227, .0229, .0402-.0405, .0517-.0523, .0525, .0527-.0545, .0550-.0552, and repeal through readoption the rule cited as 19A NCAC 03D .0102.*

*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:** July 1, 2021

**Public Hearing:**  
**Date:** April 20, 2021

**Time:** 11:00 a.m.

**Location:** Register to attend and view the Virtual Meeting using a computer, tablet or smartphone: <https://attendee.gotowebinar.com/register/550536879713916687>

If no computer access, please call in to the meeting at 1-919-614-3221 then dial attendee access code: 285-498-279.

**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 03D .0223, .0225, .0227, .0229, .0402-.0405, .0517-.0523, .0525, .0527-.0545, and .0550-.0552.

Upon review for the readoption process, the agency deemed the following rule to be unnecessary and is recommending repeal: 19A NCAC 03D .0102.

Upon review for the readoption process, the agency deemed the following rules needing amendments: 19A NCAC 03D .0221, .0224, .0226, and .0526.

**Comments may be submitted to:** Hannah D. Jernigan, 1501 Mail Service Center, Raleigh, NC 27699-1501; email [Rulemaking@ncdot.gov](mailto:Rulemaking@ncdot.gov)

**Comment period ends:** May 3, 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 03 - DIVISION OF MOTOR VEHICLES SUBCHAPTER 03D - ENFORCEMENT SECTION

### SECTION .0100 - GENERAL INFORMATION

#### 19A NCAC 03D .0102 FORMS AND PUBLICATIONS

All forms and publications pertaining to this Subchapter are on file in the Office of the Commissioner of Motor Vehicles and are available for inspection during normal working hours.

Authority G.S. 20-1.

### SECTION .0200 - MOTOR VEHICLE DEALER, SALES, DISTRIBUTOR AND FACTORY REPRESENTATIVE LICENSE

#### 19A NCAC 03D .0221 CONDITIONS FOR ISSUING TEMPORARY MARKERS BY A DEALER

(a) ~~Before a temporary marker can be issued by a~~ A dealer shall meet the following conditions ~~must be met:~~ before issuing a temporary marker:

- (1) Ownership in the vehicle ~~must~~ shall pass from the dealer to the purchaser ~~by: by assigning the title or Manufacturer's Certificate of Origin and by delivering the vehicle to the buyer.:~~
  - (A) assigning the title or, Manufacturer's Certificate of Origin; and
  - (B) delivering the vehicle to the buyer.
- (2) Dealer has ~~met all obtained from purchaser an~~ application and fee requirements pursuant to G.S. 20-79.1. for registering and titling of the purchased vehicle.
- ~~(3) Dealer has collected all prescribed fees for titling and registering the vehicle.~~
- (3) Dealer has proof of certification (Form FR-2) certifying liability insurance pursuant to G.S. 20-79.21, in effect.
- (4) Exception. Subparagraphs (a)(2) and (3) of this Rule ~~do~~ shall not apply when the dealer is selling the vehicle to an out-of-state purchaser and the vehicle is to be removed from the State of North Carolina to the purchaser's ~~home state~~ place of residency prior to the expiration of the 30-day temporary registration marker. Proof of insurance Form FS-1 FR-2 (Insurance Certification) shall be completed and kept by the dealer as part of his or her records.

(b) Procedure for issuance of 30-day temporary markers:

- (1) All 30-day temporary markers shall be issued in numerical order, beginning with the lowest number of the set or sets.
- (2) The vehicle identification number, the make, the issuance date, and the expiration date shall be entered ~~clearly and indelibly~~ on the face of the temporary marker.
- (3) A receipt, which corresponds in number with the 30-day temporary marker, shall be issued.

- (4) The receipt shall be completed in duplicate ~~duplicate, with pen and ink, and must shall~~ be legible.
- (5) The white copy of the receipt, with the 30-day marker, shall be delivered to the purchaser. The pink copy ~~is to shall~~ be retained ~~in the book~~ by the issuing dealer for ~~at least~~ one year.
- (6) Pursuant to G.S. 20-52, ~~All~~ all documents necessary to title and register the vehicle shall be presented to a license plate agency or mailed to the North Carolina Division of Motor Vehicles within four working days from date of issuance. When the purchaser is a nonresident, a 30-day temporary marker may be issued to the nonresident for the sole purpose of removing the vehicle to his or her ~~home state, place of residency~~ provided the customer has in effect liability insurance with a company licensed in North Carolina. The dealer is neither required to obtain from such nonresident a written application for North Carolina registration nor to collect the North Carolina registration fees. However, Form ~~FR-2~~ FS-1 shall be completed and kept by the dealer as part of his or her records. If a plate is to be transferred, a 30-day temporary marker cannot be issued. All ~~required~~ information shall be recorded on the report sheet in the back of receipt book.
- (7) All 30-day temporary markers and receipts that are voided shall be marked "void" ~~void~~ and recorded on the report sheet. The white copy of the receipt and the 30-day temporary marker shall be forwarded to the North Carolina Division of Motor Vehicles ~~Enforcement Section License and Theft Bureau~~ together with the report sheets. Receipts and 30-day temporary markers that do not match shall be returned to the Division after recording on report sheet. The receipt ~~is not to shall not~~ be altered.
- (8) Only one 30-day temporary marker ~~may shall~~ be issued per vehicle per ~~sale~~. sale unless requirements in G.S. 20-79.1(h) are met.
- (9) Upon issuance of all receipts (~~Markers~~) in each receipt book, the report sheet ~~must shall~~ be completed in duplicate and the original mailed to the Division. ~~A copy of the report sheet must be retained by the Dealer for one year.~~
- (10) ~~All 30-day temporary markers are non-transferable between dealers.~~

Authority G.S. 20-39; 20-79.1.

**19A NCAC 03D .0223 DEALER PLATES  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0224 ILLEGAL USE OF DEALER PLATES**

- (a) ~~It is illegal to use dealer plates on vehicles operated for any other business that the dealer is engaged in. The sale of vehicles not required to be registered, excluding the sale of farm tractors which are part of the inventory of the dealer, is considered another business and delivery of such vehicles by motor transport is not permitted with dealer plates. A dealer shall only use dealer plates in accordance with the requirements of G.S. 20-79(d).~~
- (b) Parts trucks used in delivering parts to other sales outlets may use dealer plates only if the sale of parts is incident to the dealer business. ~~A parts business that is separate and apart from the dealership cannot use dealer plates.~~
- (c) ~~It is illegal to use dealer plates on vehicles that are not owned by the dealer.~~
- (d)(c) It is illegal for persons other than dealers, corporate ~~officers~~ officers, immediate family members of an officer, sales representative, or employees of a an independent or franchised motor vehicle dealer who regularly work for the dealer at least 15 hours a week, to operate a dealership vehicle unless they are in possession of a 96-hour permit. The said permit ~~must shall~~ include license plate number, permittee's name, address, driver's license number, date and hour of issue and ~~must shall~~ be signed by a dealer or sales manager and a person receiving the vehicle. A duplicate copy of the permit ~~must shall~~ be retained by the dealer. The permit is void if erasures are made. For purposes of this Rule, immediate family member is defined as a parent; spouse; sibling; child by blood, adoption, or marriage; grandparent or grandchild.
- (e)(d) ~~It is illegal to use dealer plates on wreckers used~~ A wrecker shall not use dealer plates for general wrecker service or on wreckers which move vehicles on a rotation basis at the request of state or local law enforcement authorities. It is permissible to A wrecker may use a dealer plate on wreckers which tow vehicles for the dealer's customers only.
- (f)(e) The civil penalty imposed upon a dealer pursuant to G.S. 20-79(e)(2) is due in full upon assessment by the Division. The license of a dealer who willfully and intentionally fails to pay the civil penalty within 30 days after notice of the assessment is delivered to the dealer or an employee of the dealer shall be ~~cancelled~~ suspended by the Division until the penalty is paid in full.

Authority G.S. 20-39; 20-79; 20-302; 20-294(2).

**19A NCAC 03D .0225 VEHICLES OFFERED FOR SALE OWNED BY DEALERSHIP (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0226 VEHICLES OFFERED FOR SALE ON CONSIGNMENT**

- (a) Any dealer offering a vehicle for sale that is on consignment from a manufacturer, distributor, factory branch, distributor branch, ~~wholesaler~~ wholesaler, or individual shall have in his possession a consignment contract for each vehicle, executed by both parties.
- (b) The consignment contract shall consist of the following:
  - (1) The effective dates of the contract.



- (2) The ~~complete name, first, middle and last name,~~ address, and the telephone number, if available, of the owner.
- (3) A ~~complete~~ description of the vehicle on consignment, including the make, model, body style, year, and vehicle identification number.
- (4) The listing charges.
- (5) The percentage of commission or the amount of the commission the dealer is to get if the vehicle is sold.
- (6) The right of the dealer to receive the agreed upon commission, if vehicle is sold after the termination of the agreement and as a result of the dealer's effort, which shall not exceed 30 days.

(c) Any dealer offering a vehicle for sale on consignment ~~must~~ shall tell the prospective customer that the vehicle is on consignment unless the dealer is going to take ownership of the vehicle by completing a re-assignment on the title documents. Any dealer selling a vehicle on consignment from a wholesaler must shall take ownership of that vehicle prior to its retail sale.

(d) Dealer plates ~~cannot~~ shall not be used to demonstrate a vehicle on consignment. However, the consignor's (owner's) The consignee's plate may be used so long as the vehicle registration is active and if liability insurance is in effect.

(e) In addition to a consignment contract, the dealer shall ~~have in his possession~~ keep on file an equipment listing of the vehicle, consisting of, but not limited to, the following:

- (1) Owners name and address.
- (2) Complete A description of the vehicle which shall include the year, make, model, body style, color, odometer reading, ~~special or extra~~ additional equipment, and the disclosure of known defects.

(f) The ownership documents of any vehicle on consignment ~~must~~ shall be made available by the dealer to any ~~authorized agent of the North Carolina Division of Motor Vehicles~~ employee on request. ~~The ownership documents must be readily available from the owner.~~

(g) The owner ~~must~~ shall execute the ownership documents and deliver them to the purchaser at the time the vehicle is delivered.

~~(h) The vehicle must display a current safety inspection certificate.~~

Authority G.S. 20-302.

**19A NCAC 03D .0227 VEHICLES OFFERED FOR SALE ON A FLOOR PLAN LIEN (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0229 CORP. SURETY BONDS: MOBILE/MANUFACTURED HOME DEALERS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0400 - NOTICE OF SALE AND STORED VEHICLES**

**19A NCAC 03D .0402 UNCLAIMED MOTOR VEHICLE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0403 SALE OF VEHICLE TO SATISFY STORAGE OR MECHANIC'S LIEN (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0404 SALE OF MOTOR VEHICLE UNDER JUDICIAL PROCEEDINGS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0405 SALE OF ABANDONED VEHICLE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0500 - GENERAL INFORMATION REGARDING SAFETY INSPECTION OF MOTOR VEHICLES**

**19A NCAC 03D .0517 DEFINITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0518 LICENSING OF SAFETY OR EMISSIONS INSPECTION STATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0519 STATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0520 MECHANIC REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0521 LICENSING REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0522 DENIAL, SUSPENSION OR REVOCATION OF LICENSES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0523 OPERATION OF SAFETY OR EXHAUST EMISSIONS INSPECTION STATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0525 PRE-INSPECTION REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0526 SAFETY EQUIPMENT GRADING ITEMS**

The authorized safety equipment inspection mechanic shall approve or disapprove each inspected item. The following requirements shall apply:

- (1) If the item inspected is approved, a P ~~check~~ shall be placed in the appropriate block as indicated ~~on the SI-15 form.~~ by the inspection analyzer.
- (2) If the item inspected is not approved, an "X" F shall be placed in the appropriate block as

- indicated ~~on the SI-15 form~~ by the inspection analyzer.
- (3) If the disapproved item is corrected during inspection, C shall be placed in the appropriate block as indicated by the inspection analyzer. ~~the appropriate block in "corrected during inspection" shall be checked as indicated on the SI-15 form.~~

*Authority G.S. 20-2; 20-39; 20-183.2; 20-183.4D; 20-183.6A.*

**19A NCAC 03D .0527 EXHAUST EMISSION CONTROLS TAMPERING CHECK (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0528 SAFETY EQUIPMENT EXHAUST EMISSION INSPECTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0529 CERTIFICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0530 DISAPPROVAL (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0531 REINSPECTION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0531 REINSPECTION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0532 BRAKES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0533 LIGHTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0534 HORN (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0535 STEERING MECHANISM (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0536 WINDSHIELD WIPER (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0537 DIRECTIONAL SIGNALS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0538 TIRES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0539 TIRES - DEFINITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0540 REAR VIEW MIRRORS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0541 EXHAUST EMISSION CONTROLS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0542 EMISSIONS CONTROL DEVICE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0543 INSPECTION PROCEDURE FOR EMISSIONS EQUIPMENT (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0544 SAFETY INSPECTION OF MOTORCYCLES (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0545 INVESTIGATION/AUDITS/ SAFETY OR EXHAUST EMISSIONS INSPECTION STATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0550 WAIVERS FROM EXHAUST EMISSIONS TEST REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0551 WINDOW TINTING (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**19A NCAC 03D .0552 PHOTOMETER DESIGN AND PERFORMANCE REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

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

### **CHAPTER 28 - LANDSCAPE CONTRACTORS' LICENSING BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Landscape Contractors' Licensing Board intends to amend the rules cited as 21 NCAC 28B .0103, .0204, .0402, .0403, .0503, and .0508.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
[www.nclclb.com](http://www.nclclb.com)

**Proposed Effective Date:** July 1, 2021

**Public Hearing:**

**Date:** April 20, 2021

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

**Location:** 3901 Barrett Drive, Suite 202, Raleigh, NC 27609

**Reason for Proposed Action:**

*21 NCAC 28B .0103 - To clarify where license numbers must be displayed and who may sign contracts.*

*21 NCAC 28B .0204 - To establish a deadline in which licensees are required to notify the Board of a change in business status*

and to confirm statutory requirement that financial responsibility always be maintained.

**21 NCAC 28B .0402** - To require licensees to obtain CE in a variety of topics and establish the date on which the requirement begins.

**21 NCAC 28B .0403** - To amend the period of time that a licensee must maintain their CE records.

**21 NCAC 28B .0503** - To include the installation of artificial turf within the jurisdiction of the Board.

**21 NCAC 28B .0508** - To provide clarification re: installation of walls.

**Comments may be submitted to:** Calvin M. Kirven, The North Carolina Landscape Contractors' Licensing Board, 3901 Barrett Drive, Suite 202, Raleigh, NC 27609

**Comment period ends:** April 30, 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

**SECTION .0100 – STATUTORY AND ADMINISTRATIVE PROVISIONS**

**21 NCAC 28B .0103 PRACTICE OF LANDSCAPE CONTRACTING; DISPLAY OF LICENSE NUMBER**

(a) An individual who is "readily available to exercise supervision over the landscape construction and contracting work" as set forth in G.S. 89D-12(a) and G.S. 89D-17(f) is an individual who is physically located no more than 100 miles from where the construction or contract project is located or who is available electronically with the ability to view the construction or contract project.

(b) The contractor's license number shall be displayed in accordance with G.S. ~~89D-12(3)~~, 89D-12(e). License numbers displayed on vehicles used in the contractor's landscaping business shall be a minimum of one inch in height.

(c) In addition to the requirements of G.S. 89D-12(e), license numbers shall be included on all estimates and proposals.

(d) All contracts, estimates, and proposals shall be signed by the contractor or his or her designee.

Authority G.S. 89D-12(a) and (e); 89D-15(2).

**SECTION .0200 – LICENSURE; RECIPROCITY**

**21 NCAC 28B .0204 MAINTAIN CURRENT INFORMATION**

(a) Every licensee shall keep the Board advised of the licensee's current mailing address, phone number, email address, and the name or names under which the licensee is practicing. If any change occurs, the licensee shall notify the Board in writing of the change within ~~60~~ 30 days.

(b) Upon the dissolution of a professional relationship, the member or members thereof shall notify the Board in writing within 30 days concerning such dissolution and of the succeeding business status and addresses of the individuals or firm.

(c) A licensee shall maintain a continuous surety bond coverage or an irrevocable letter of credit while the license is active. Within 5 days after the lapse of a surety bond or revocation of a letter of credit prescribed in G.S. 89D-16(a)(4), a licensee shall notify the Board in writing. If a licensee fails to renew the surety bond or obtain a new letter of credit within 30 days after the lapse or revocation, the license shall be revoked.

(d) Failure to notify the Board of the changes described in Paragraphs (a), (b), or (c) of this Rule shall constitute a violation of G.S. ~~89D-22~~, 89D-22(a)(6).

Authority G.S. 89D-15(2), 89D-15(11); 89D-16(a)(4); 89D-17(h); ~~89D-22(8)~~; 89D-22(a)(8).

**SECTION .0400 - CONTINUING EDUCATION**

**21 NCAC 28B .0402 CONTINUING EDUCATION UNITS**

(a) A licensee shall complete in-person seven continuing education units (CEUs) during the year preceding renewal. ~~Beginning with renewals filed after August 1, 2016, at~~ At least three of the seven CEUs must be technical credits and at least two of the seven CEUs must be business credits. If the information provided to the Board as required by this Section is unclear, the Board may request additional information from a licensee in order to assure compliance with continuing education requirements.

(b) For the purposes of this Rule:

- (1) "technical credits" are defined as credits relating ~~directly~~ to the subject matter of landscape contracting as described in G.S. ~~89D-11(3); and 89D-11(3)~~ and Rules .0502 through .0511 in this Subchapter. The rules shall be grouped as follows:

(A) Group A: topics covered in Rules .0502, .0503, .0510, and .0511 in this Subchapter.

(B) Group B: topics covered in Rules .0504 and .0506 in this Subchapter.

(C) Group C: topics covered in Rules .0507 through .0509 in this Subchapter.

(D) Group D: topics covered in Rule .0505; and

- (2) "business credits" are defined as credits relating to general business practices, including business planning, contracts, liability exposure, human resources, basic accounting, financial statements, and safety.

(c) Beginning with renewals filed after August 1, 2022, a licensee shall obtain one technical credit in at least two groups described in Subparagraph (b)(1) of this Rule in each licensing year. A licensee shall obtain at least one technical credit in each of the distinct groups described in Subparagraph (b)(1) of this Rule during a consecutive three-year period.

~~(e)(d)~~ CEUs shall be determined as follows:

Type of Qualifying Activity	Minimum time required for 1 CEU
Live course	50 minutes
Online course	50 minutes
Trade Shows, Field Days, and Tours	4 hours
Green Industry Board Member Service	<del>4 hour</del> <u>5 hours maximum (3 technical and 2 business)</u>
Teaching or instructing	1 hour
In-house or Green Industry training	1 hour
<u>NC Landscape Contractors Licensing Board Service</u>	<u>5 hours maximum (3 technical and 2 business)</u>

~~(d)(e)~~ No more than two CEU credits shall be given for qualifying teaching or instructing in one year.

~~(e) No more than four CEU credits shall be given for pesticide credits issued by the North Carolina Department of Agriculture and Consumer Services in one year.~~

(f) Credit shall not be given in increments of less than .5 CEUs. Breaks in courses shall not be counted towards CEU credit.

(g) Requests for pre-approval as set forth in Rule .0405 of this Subchapter shall be submitted at least 45 days prior to the first day of the course or event.

(h) All continuing education shall be taken in-person by the individual receiving credit.

(i) A licensee shall not take the same CEU course within two consecutive licensing years.

(j) A licensee licensed less than 12 months shall not be subject to continuing education requirements for the initial renewal date as set forth in this Rule.

Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b).

## 21 NCAC 28B .0403 CONTINUING EDUCATION RECORDS; AUDIT

(a) A licensee shall maintain records of attendance at continuing education programs for which CEUs have been approved for ~~two~~

three years following the processing date of the renewal application to which the CEUs were applied.

(b) Compliance with annual CEU requirements shall be determined through a random audit process conducted by the Board. Licensees selected for auditing shall provide the Board with the following documentation of the CEU activities claimed for the renewal period:

- (1) ~~Attendance~~ attendance verification records; and
- (2) ~~Information~~ information regarding course content, instructors, and sponsoring organization.

(c) Licensees selected for audit shall submit all requested information to the Board within 21 calendar days after the date the licensee was notified by the Board of the audit.

(d) Failure to maintain compliance with the Board's continuing education requirements set forth in Rule .0402 of this Section shall result in the licensee's status being ~~changed to inactive~~ administratively suspended.

Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b).

## SECTION .0500 - MINIMUM STANDARDS

### 21 NCAC 28B .0503 TURF

(a) When establishing natural turf, the licensed contractor shall:

- (1) Notify the owner or the construction manager whether there is adequate time to establish the specified turf from seed within the construction schedule and prior to finish of the job;
- (2) Prior to lawn installation, loosen soil to a minimum depth of three inches;
- (3) Confirm that all lawn seed meets the standards of the NC Seed Law of 1963, as set forth in G.S. 106, Art. 31;
- (4) Evenly distribute seed;
- (5) Apply seed at manufacturer's recommended rates;
- (6) Roll or rake after seeding to ~~insure~~ ensure good soil contact;
- (7) Install sod within 36 hours of harvesting unless weather conditions or turf types dictate a shorter timeframe;
- (8) Lay sod strips in a staggered pattern, horizontal to slopes and with tight seams;
- (9) Roll sod after installation to provide good soil contact;
- (10) Distribute sprigs evenly;
- (11) ~~insure~~ Ensure that sprigs and sod plugs are in good contact with the soil;
- (12) Water lawn areas after installation and in accordance with the needs of the lawn; and
- (13) Notify client of his or her responsibility to water turf following installation.

(b) When installing artificial turf, the licensed contractor shall:

- (1) Ensure that the sub-grade is compacted and shall pitch properly to drain;
- (2) Establish a perimeter attachment system to secure the artificial turf;

- (3) Roll out the turf with the nap facing a consistent direction;
- (4) Secure the turf with an evenly weighted sand layer distributed over the entire surface; and
- (5) Follow all manufacturer's specifications for the type of turf being installed.

*Authority G.S. 89D-15(2); 89D-15(16).*

**21 NCAC 28B .0508 WALLS**

- (a) When installing retaining walls, the licensed contractor shall:
  - (1) ~~Adhere to all pertinent codes.~~ Adhere to all pertinent codes;
  - (2) Adhere to all NC Department of Insurance requirements regarding the construction of retaining walls which are hereby incorporated by reference and can be found at [www.ncosfm.gov/codes](http://www.ncosfm.gov/codes) free of charge;
  - (2)(3) ~~Adhere to manufacturer's or design professionals specifications.~~ Adhere to manufacturer's or design professionals specifications;
  - (3)(4) ~~Bury the first course of a retaining wall.~~ Bury the first course of a retaining wall;
  - (4)(5) ~~Not construct dry-laid stone walls of a height more than 3 feet above grade.~~ Not construct dry-laid stone walls of a height more than 3 feet above grade;
  - (5)(6) ~~Include a subdrain system that is constructed and sized to release the subsurface water behind the wall and not allow hydrostatic pressure to build behind the wall.~~ Include a subdrain system that is constructed and sized to release the subsurface water behind the wall and not allow hydrostatic pressure to build behind the wall;
  - (6)(7) ~~Construct on a level, well-compacted base of granular material at least 6 inches deep.~~ Construct on a level, well-compacted base of granular material at least 6 inches deep;
  - (7)(8) ~~Place backfill behind retaining walls in lifts no greater than 6 inches before compacted (each lift shall be well-compacted).~~ Place backfill behind retaining walls in lifts no greater than 6 inches before compacted (each lift shall be well-compacted);
  - (8)(9) ~~Prevent excessive runoff from passing over a retaining wall.~~ Prevent excessive runoff from passing over a retaining wall;
  - (9)(10) ~~Construct vertically-set timber walls with above-ground heights equal to or less than the depth of timbers below grade.~~ Construct vertically-set timber walls with above-ground heights equal to or less than the depth of timbers below grade;

- (10)(11) ~~Install deadmen every fourth course on 8 feet centers when constructing horizontally-set timber retaining walls with staggered joints.~~ Install deadmen every fourth course on 8 feet centers when constructing horizontally-set timber retaining walls with staggered joints;

- (11)(12) ~~Stagger the joints when constructing dry-laid stone walls. If successive vertical joints occur, the licensed contractor shall avoid running vertical joints more than two courses.~~ Stagger the joints when constructing dry-laid stone walls. If successive vertical joints occur, the licensed contractor shall avoid running vertical joints more than two courses; and

- (13) Assure that segmental walls meet the manufacturer's specifications.

- (b) When installing retaining walls of dry-laid stone or concrete rubble, the licensed contractor shall:

- (1) Construct the wall no higher than three feet above grade; and
- (2) Stagger the joints when constructing a dry-laid stone wall.

- (c) ~~When installing freestanding walls, the licensed contractor shall:~~

- (1) ~~Install footings for masonry and cast-in-place concrete freestanding walls of reinforced concrete. The top of the footing shall be at least 1 foot below grade.~~
- (2) ~~Reinforce freestanding walls as needed to prevent displacement from wind loads.~~
- (3) ~~Insure~~ Ensure that moisture is prevented from entering a cavity wall during construction.
- (4) ~~Insure~~ Ensure that segmental wall construction meets segmental wall manufacturer's specifications.

*Authority G.S. 89D-15(2); 89D-15(16).*

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**APPROVED RULES**

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

*Rules approved by the Rules Review Commission at its meeting on January 21, 2021 Meeting.*

**REGISTER CITATION TO THE  
NOTICE OF TEXT****AGRICULTURE, BOARD OF**

<u>Severability</u>	02 NCAC	61	.0112*	35:05 NCR
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**CHILD CARE COMMISSION**

<u>Definitions</u>	10A NCAC	09	.0102*	35:04 NCR
<u>Application for a License for a Child Care Facility</u>	10A NCAC	09	.0302*	35:04 NCR
<u>Temporary Licenses for Centers</u>	10A NCAC	09	.0403*	35:04 NCR
<u>Safe Environment</u>	10A NCAC	09	.0601*	35:04 NCR
<u>Safe Sleep Practices</u>	10A NCAC	09	.0606*	35:04 NCR
<u>Emergency Preparedness and Response in Child Care Centers</u>	10A NCAC	09	.0607*	35:04 NCR
<u>Health Standards for Child Care Providers, Substitute Pro...</u>	10A NCAC	09	.0701	35:04 NCR
<u>Staff/Child Ratios for Centers</u>	10A NCAC	09	.0713*	35:04 NCR
<u>Application for Enrollment</u>	10A NCAC	09	.0801	35:04 NCR
<u>Emergency Medical Care</u>	10A NCAC	09	.0802*	35:04 NCR
<u>On-Going Training and Professional Development</u>	10A NCAC	09	.1103	35:04 NCR
<u>Documentation of On-Going Training and Professional Devel...</u>	10A NCAC	09	.1106	35:04 NCR
<u>Outdoor Space</u>	10A NCAC	09	.1402	35:04 NCR
<u>Activities Involving Water in Child Care Centers</u>	10A NCAC	09	.1403	35:04 NCR
<u>Application for a License for a Family Child Care Home</u>	10A NCAC	09	.1702*	35:04 NCR
<u>On-Going Requirements for Family Child Care Home Operators</u>	10A NCAC	09	.1703*	35:04 NCR
<u>Nutrition Standards</u>	10A NCAC	09	.1706*	35:04 NCR
<u>Building Requirements</u>	10A NCAC	09	.1707*	35:04 NCR
<u>Emergency Preparedness and Response</u>	10A NCAC	09	.1714*	35:04 NCR
<u>Requirements for Daily Operations</u>	10A NCAC	09	.1718*	35:04 NCR
<u>Requirements for Records</u>	10A NCAC	09	.1721*	35:04 NCR
<u>Safe Sleep Practices</u>	10A NCAC	09	.1724*	35:04 NCR
<u>Additional Caregiver and Substitute Provider Qualifications</u>	10A NCAC	09	.1729	35:04 NCR
<u>Activities Involving Water</u>	10A NCAC	09	.1730	35:04 NCR
<u>Provisional Child Care Facility License or Provisional No...</u>	10A NCAC	09	.2204*	35:04 NCR
<u>Suspension</u>	10A NCAC	09	.2206*	35:04 NCR
<u>Revocation of a Child Care Facility License or an Order t...</u>	10A NCAC	09	.2209*	35:04 NCR
<u>Child Care Center Records Retention</u>	10A NCAC	09	.2318	35:04 NCR
<u>Staff Qualifications</u>	10A NCAC	09	.2408	35:04 NCR
<u>Children's Activities</u>	10A NCAC	09	.2410	35:04 NCR
<u>Activities: Off-Premises</u>	10A NCAC	09	.2509	35:04 NCR
<u>Criminal History Record Check Requirements for Child Care...</u>	10A NCAC	09	.2703*	35:04 NCR
<u>Enhanced Space Requirements</u>	10A NCAC	09	.2809	35:04 NCR
<u>Enhanced Program Standards for Child Care Centers</u>	10A NCAC	09	.2817	35:04 NCR
<u>Staff Qualifications</u>	10A NCAC	09	.2903*	35:04 NCR

<u>NC Pre-K Teacher Education, Licensure and Credentials</u>	10A NCAC	09	.3012*	35:04 NCR
<b>HHS - HEALTH SERVICE REGULATION, DIVISION OF</b>				
<u>Approval</u>	10A NCAC	14E	.0105*	34:18 NCR
<u>Medications and Anesthesia</u>	10A NCAC	14E	.0312*	34:18 NCR
<u>Food Service</u>	10A NCAC	14E	.0316	34:18 NCR
<b>ALCOHOLIC BEVERAGE CONTROL COMMISSION</b>				
<u>Direct Shipments</u>	14B NCAC	15A	.1304	35:06 NCR
<u>Transportation Between ABC Boards</u>	14B NCAC	15A	.1305	35:06 NCR
<u>Special Orders</u>	14B NCAC	15A	.1403*	35:06 NCR
<u>Antique Spirituous Liquor Special Orders</u>	14B NCAC	15A	.1407*	35:06 NCR
<u>Purchase-Transportation Permits</u>	14B NCAC	15A	.1706	35:06 NCR
<u>Purchase-Transportation Permits for Wine and Liquor</u>	14B NCAC	15A	.1801	35:06NCR
<u>Distillery Record-Keeping</u>	14B NCAC	15A	.2103	35:06 NCR
<u>Distillery Issued Purchase-Transportation Permits</u>	14B NCAC	15A	.2104	35:06 NCR
<b>ENVIRONMENTAL MANAGEMENT COMMISSION</b>				
<u>Purpose of this Subchapter</u>	15A NCAC	02I	.0101*	35:02 NCR
<u>Definitions</u>	15A NCAC	02I	.0102*	35:02 NCR
<u>Delegations</u>	15A NCAC	02I	.0103	35:02 NCR
<u>Authorized Hearing Officers</u>	15A NCAC	02I	.0104	35:02 NCR
<u>Requirements of Hearing Officer or Panel</u>	15A NCAC	02I	.0105*	35:02 NCR
<u>Department Hearing Rules</u>	15A NCAC	02I	.0106	35:02 NCR
<u>Procedures</u>	15A NCAC	02I	.0203	35:02 NCR
<u>Opportunity for Hearing</u>	15A NCAC	02I	.0301	35:02 NCR
<u>Request for Hearing</u>	15A NCAC	02I	.0302	35:02 NCR
<u>Water Quality Discharge Permits: Notice: Procedures</u>	15A NCAC	02I	.0402	35:02 NCR
<u>Form and Contents of Petition</u>	15A NCAC	02I	.0501	35:02 NCR
<u>Review by a Committee of the Commission</u>	15A NCAC	02I	.0502*	35:02 NCR
<u>Presentation of the Commission</u>	15A NCAC	02I	.0503	35:02 NCR
<u>Recourse to Denial of Petition</u>	15A NCAC	02I	.0504	35:02 NCR
<u>Issuance of Declaratory Ruling</u>	15A NCAC	02I	.0601*	35:02 NCR
<u>Procedure for Submission of Petition</u>	15A NCAC	02I	.0602*	35:02 NCR
<u>Disposition of Request</u>	15A NCAC	02I	.0603*	35:02 NCR
<b>WILDLIFE RESOURCES COMMISSION</b>				
<u>Sale of Live Foxes and Coyotes to Controlled Fox Hunting ...</u>	15A NCAC	10B	.0409*	35:07 NCR
<u>Clay County</u>	15A NCAC	10F	.0308*	35:06 NCR
<u>Stanly County</u>	15A NCAC	10F	.0317*	35:06 NCR
<u>Burke County</u>	15A NCAC	10F	.0323*	35:06 NCR
<u>Definitions and General Requirements</u>	15A NCAC	10H	.1201*	35:07 NCR
<u>Establishment and Operation</u>	15A NCAC	10H	.1202*	35:07 NCR
<u>Quality of Foxes and Coyotes Released</u>	15A NCAC	10H	.1203*	35:07 NCR
<u>Records Required</u>	15A NCAC	10H	.1204	35:07 NCR
<u>Hunting License Required</u>	15A NCAC	10H	.1205	35:07 NCR
<u>Minimum Standards for Care of Foxes and Coyotes</u>	15A NCAC	10H	.1206*	35:07 NCR
<u>License Revocation and Enforcement</u>	15A NCAC	10H	.1207*	35:07 NCR

**MARINE FISHERIES COMMISSION**

<u>Definitions</u>	15A NCAC	18A	.3401*	35:03 NCR
<u>Bacteriological Limits for Swimming Areas</u>	15A NCAC	18A	.3402	35:03 NCR
<u>Public Notice of Increased Health Risks in Swimming Areas</u>	15A NCAC	18A	.3403*	35:03 NCR
<u>Swimming Advisories for Point Source Discharges into Swim...</u>	15A NCAC	18A	.3404*	35:03 NCR
<u>Rescinding a Pending Swimming Advisory or Swimming Advisory</u>	15A NCAC	18A	.3405*	35:03 NCR
<u>Destruction of Signs</u>	15A NCAC	18A	.3406	35:03 NCR
<u>Applicability of Rules</u>	15A NCAC	18A	.3407	35:03 NCR

**SECRETARY OF STATE, DEPARTMENT OF THE**

<u>Sunset Provision</u>	18 NCAC	06A	.2120*	35:07 NCR
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**BARBER EXAMINERS, BOARD OF**

<u>Waiver of Requirements During Disaster or Emergency</u>	21 NCAC	06F	.0128	35:04 NCR
<u>Form Bar-1</u>	21 NCAC	06N	.0102	35:04 NCR
<u>Form Bar-10</u>	21 NCAC	06N	.0111	35:04 NCR

**MEDICAL BOARD**

<u>Prescriptive Authority</u>	21 NCAC	32S	.0212*	35:04 NCR
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**PHARMACY, BOARD OF**

<u>COVID-19 Drug Preservation Rule</u>	21 NCAC	46	.1819*	35:08 NCR
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*The following rules are subject to Legislative Review.*

**ALCOHOLIC BEVERAGE CONTROL COMMISSION**

<u>Sales and Purchase Restrictions: Records</u>	14B NCAC	15C	.0602*	35:07 NCR
<u>Malt Beverage and Wine Shipments to Military Bases</u>	14B NCAC	15C	.0607*	35:07 NCR

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

**02 NCAC 61 .0112 SEVERABILITY**

*History Note: Authority G.S. 106-65.107;  
Eff. April 1, 1984;  
Transferred from 15A NCAC 18B .0212 Eff. May 1, 2012;  
Repealed Eff. March 1, 2021.*

- materials are kept in accordance with G.S. 110-91(12).
- (2) "Agency" as used in this Chapter means Division of Child Development and Early Education, Department of Health and Human Services located at 333 Six Forks Road, Raleigh, North Carolina 27609.
- (3) "Appellant" means the person or persons who request a contested case hearing.
- (4) "Basic School-Age Care" training (BSAC training) means the training on the elements of quality afterschool care for school-age children, developed by the North Carolina State University Department of 4-H Youth Development and subsequently revised by the North Carolina School-age Quality Improvement Project.
- (5) "Biocontaminant" means blood, bodily fluids, or excretions that may spread infectious disease.
- (6) "Child Care Center" means an arrangement where, at any one time, there are three or more

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

**10A NCAC 09 .0102 DEFINITIONS**

The terms and phrases used in this Chapter are defined as follows except when the context of the rule requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (1) "Activity area" means a space that is accessible to children and where related equipment and



- preschool-age children or nine or more school-age children receiving child care. This does not include arrangements described in Item (18) of this Rule regarding Family Child Care Homes.
- (7) "Child Care Facility" means child care centers, family child care homes, and any other child care arrangement not excluded by G.S. 110-86(2), that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.
- (8) "Child care provider" as defined by G.S. 110-90.2(a)(2) includes the following employees who have contact with the children in a child care program:
- (a) facility directors;
  - (b) child care administrative staff;
  - (c) teachers;
  - (d) teachers' aides;
  - (e) substitute providers;
  - (f) uncompensated providers;
  - (g) cooks;
  - (h) maintenance personnel; and
  - (i) drivers.
- (9) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- (10) "Curriculum" means a curriculum that has been approved as set forth in these Rules by the NC Child Care Commission as comprehensive, evidenced-based, and with a reading component.
- (11) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (12) "Division" means the Division of Child Development and Early Education within the Department of Health and Human Services.
- (13) "Domains" means the developmental areas of learning described in the North Carolina Foundations for Early Learning and Development © 2013, available on the Division's website at [http://ncchildcare.nc.gov/providers/pv\\_foundations.asp](http://ncchildcare.nc.gov/providers/pv_foundations.asp). This instrument is incorporated by reference and does not include subsequent editions. The domains address children's emotional and social development, health and physical development, approaches to play and learning, language development, and communication and cognitive development.
- (14) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (15) "Early Childhood Environment Rating Scale - Revised Edition" (Harms, Clifford, and Cryer, 2005, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are two and a half years old through five years old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at [http://www.teacherscollegepress.com/assessment\\_materials.html](http://www.teacherscollegepress.com/assessment_materials.html). The cost of this scale is twenty-four dollars and ninety-five cents (\$24.95). A copy of this instrument is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection during regular business hours. For the purposes of this Rule, "regular business hours" for the Division means 8 a.m. to 5 p.m. during weekdays, excluding state holidays.
- (16) "Experience working with school-age children" means working with school-age children as a child care administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.
- (17) "Family Child Care Environment Rating Scale – Revised Edition" (Harms, Cryer and Clifford, 2007, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at [http://www.teacherscollegepress.com/assessment\\_materials.html](http://www.teacherscollegepress.com/assessment_materials.html). The cost of this scale is twenty-four dollars and ninety-five cents (\$24.95). A copy of this instrument is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection during regular business hours.
- (18) "Family Child Care Home" means a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care. Family child care home operators must reside at the location of the family child care home.
- (19) "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.
- (20) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and

- in this Chapter, using space the Division has identified for each group.
- (21) "Health care professional" means:
- (a) a physician licensed in North Carolina;
  - (b) a nurse practitioner approved to practice in North Carolina; or
  - (c) a licensed physician assistant.
- (22) "Household member" means a person who resides in a family home as evidenced by factors including maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.
- (23) "If weather conditions permit" means:
- (a) temperatures that fall within the guidelines developed by the Iowa Department of Public Health and specified on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of charge from <http://idph.iowa.gov/Portals/1/Files/HCCI/weatherwatch.pdf>; and is incorporated by reference and includes subsequent editions and amendments;
  - (b) following the air quality standards as set out in 15A NCAC 18A .2832(d). The Air Quality Color Guide can be found on the Division's web site at <https://xapps.ncdenr.org/aq/ForecastCenter> or call 1-888-RU4NCAIR (1-888-784-6224); and
  - (c) no active precipitation. Caregivers may choose to go outdoors when there is active precipitation if children have appropriate clothing such as rain boots and rain coats, or if they are under a covered area.
- (24) "Infant" means any child from birth through 12 months of age.
- (25) "Infant/Toddler Environment Rating Scale - Revised Edition" (Harms, Cryer, and Clifford, 2003, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are younger than 30 months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at [http://www.teacherscollegepress.com/assessment\\_materials.html](http://www.teacherscollegepress.com/assessment_materials.html). The cost of this scale is twenty-four dollars and ninety-five cents (\$24.95). A copy of this instrument is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection during regular business hours.
- (26) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation and administered by the North Carolina Child Care Health and Safety Resource Center for the Division of Child Development and Early Education for caregivers of children ages 12 months and younger. Information regarding trainer and training availability can be found on the Division's website at [http://ncchildcare.ncdhhs.gov/providers/pv\\_its\\_sidsproject.asp](http://ncchildcare.ncdhhs.gov/providers/pv_its_sidsproject.asp).
- (27) "Lead Teacher" means an individual who is responsible for planning and implementing the daily program of activities for a group of children in a child care facility. A lead teacher is counted in staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the facility.
- (28) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility. The owner of a facility is the licensee.
- (29) "Lockdown drill" means an emergency safety procedure in which occupants of the facility remain in a locked indoor space and is used when emergency personnel or law enforcement determine a dangerous person is in the vicinity.
- (30) "North Carolina Early Childhood Administration Credential" means the state early childhood administration credential that is based on completion of required early childhood coursework taken at any NC Community College. Other post secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Administration Credential Coursework. A copy of the North Carolina Early Childhood Administration Credential requirements is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection or copying at no charge during regular business hours. This information can be found on the Division's website at <http://ncchildcare.ncdhhs.gov/providers/credential.asp>.
- (31) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an

- individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals certifies individuals and assigns a certification level on two scales:
- (a) the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010; or
  - (b) the School Age Professional Scale (SA Scale) in effect as of May 19, 2010.
- Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE Scale is designed for individuals working with or on behalf of children ages birth to five. The SA Scale is designed for individuals working with or on behalf of children ages 5 to 12 who are served in school age care settings. Information on the voluntary certification process can be found on the North Carolina Institute for Child Development Professionals website at <http://ncicdp.org/certification-licensure/eec-overview/>.
- (32) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of required early childhood coursework taken at any NC Community College. Other post secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Credential Coursework. A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection or copying at no charge during regular business hours. This information can be found on the Division's website at <http://ncchildcare.ncdhhs.gov/providers/credential.asp>.
  - (33) "Operator" means the owner, director, or other person having responsibility for operation of a child care facility subject to licensing.
  - (34) "Owner" means any person with a five percent or greater equity interest in a child care facility; however, stockholders of corporations who own child care facilities shall not be subject to mandatory criminal history checks pursuant to G.S. 110-90.2 unless they are a child care provider.
  - (35) "Parent" means a child's parent, legal guardian, or full-time custodian.
  - (36) "Passageway" means a hall or corridor.
  - (37) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.
  - (38) "Premises" means the entire child care building and grounds including natural areas, outbuildings, dwellings, vehicles, parking lots, driveways and other structures located on the property.
  - (39) "Preschooler" or "preschool-age child" means any child who is at least three years of age and does not fit the definition of school-age child in this Rule.
  - (40) "Reside" refers to any person that lives at a child care facility location. Factors for determining residence include:
    - (a) use of the child care facility address as a permanent address for personal identification or mail delivery;
    - (b) use of the child care facility to store personal belongings such as furniture, clothing, and toiletry items; and
    - (c) names listed on official documents such as criminal records or property tax records.
  - (41) "School-Age Care Environment Rating Scale, Updated Edition" (Harms, Jacobs, and White, 2014, published by Teachers College Press) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of the children in the group are older than five years, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teacher College Press website at [http://www.teacherscollegepress.com/assessment\\_materials.html](http://www.teacherscollegepress.com/assessment_materials.html). The cost of this scale is twenty-four dollars and ninety-five cents (\$24.95). A copy of this instrument is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection during regular business hours.
  - (42) "School-age child" means any child who is attending or who has attended a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.
  - (43) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).
  - (44) "Shelter-in-Place drill" means staying in place to take shelter rather than evacuating. It involves selecting a small interior room, with no or few windows, and used when emergency personnel or law enforcement determine there is an environmental or weather related threat.

- (45) "Staff" or "staff member" as used in this Chapter includes child care providers, substitute providers, and uncompensated providers. Volunteers, as defined in this Rule, are not staff members.
- (46) "Substitute provider" means any person who temporarily assumes the duties of a staff person for a time period not to exceed two consecutive months and may or may not be monetarily compensated by the facility. Any substitute provider must be at least 18 years of age and literate.
- (47) "Teacher" means an individual who assists the Lead Teacher in planning and implementing the daily program of activities for a group of children in a child care facility. A teacher is counted in staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the facility.
- (48) "Teacher's aide" or "Aide" means a person who assists the lead teacher or the teacher in planning and implementing the daily program. A teacher's aide shall be at least 16 years old and less than 18 years old, shall be literate, and may count in staff/child ratio as long as there is also a credentialed staff person who is at least 21 years of age present in the room and available to respond to the needs of the teacher's aide and children in care.
- (49) "Toddler" means any child ages 13 months to 35 months of age.
- (50) "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar.
- (51) "Uncompensated provider" means a person who works in a child care facility and is counted in staff/child ratio or has unsupervised contact with children, but who is not monetarily compensated by the facility. Any uncompensated provider must be at least 18 years of age and literate.
- (52) "Volunteer" means a person who works in a child care facility and is not counted in staff/child ratio, does not have unsupervised contact with children, and is not monetarily compensated by the facility. A person who is at least 13 years of age, but less than 16 years of age, may work on a volunteer basis, as long as he or she is supervised by and works with a staff person who is at least 21 years of age and meets staff qualification requirements.

*History Note: Authority G.S. 110-85; 110-88; 110-90.2; 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. April 1, 1992; October 1, 1991; October 1, 1990; November 1, 1989;*

*Temporary Amendment Eff. January 1, 1996;*

*Amended Eff. March 1, 2015; May 1, 2013; September 1, 2012; July 3, 2012; July 1, 2012; November 1, 2007; May 2006; May 1, 2004; April 1, 2003; July 1, 2000; April 1, 1999; July 1, 1998; April 1, 1997;*

*Readopted Eff. October 1, 2017;*

*Amended Eff. February 1, 2021; September 1, 2019.*

**10A NCAC 09 .0302 APPLICATION FOR A LICENSE FOR A CHILD CARE CENTER**

(a) An application for a license for a child care center shall be submitted on the form provided by the Division, which may be found online at [http://ncchildcare.ncdhhs.gov/PDF\\_forms/FacilityProfileApp.pdf](http://ncchildcare.ncdhhs.gov/PDF_forms/FacilityProfileApp.pdf). The application for a child care center license shall include the following information:

- (1) owner name;
- (2) center name, address, phone number, and location address;
- (3) center contact information;
- (4) requested age range of children in the child care center;
- (5) hours of operation;
- (6) type of care to be provided;
- (7) type of building;
- (8) type of center;
- (9) proposed opening date;
- (10) proposed number of children to be served;
- (11) type of business operation;
- (12) history of operation or licensing of child care facilities; and
- (13) signature of applicant of either:
  - (A) the individual who will be responsible for the operation of the center and for assuring compliance with G.S. 110, Article 7 and this Chapter; or
  - (B) an officer of an entity who will be responsible for the operation of the center and for ensuring compliance with G.S. 110, Article 7 and this Chapter.

Upon receipt of the application, the Division shall assess the information provided to determine if the prospective licensee may be denied a license for one or more of the reasons set forth in 10A NCAC 09 .2215.

(b) In addition to the application, an applicant shall submit the following documentation:

- (1) the required criminal background check qualification letter as set forth in 10A NCAC 09 .2703;
- (2) inspection reports required by G.S. 110-91(1), (4), and (5). If a center does not conform with a building, fire, or sanitation standard, the Division shall accept an inspector's determination that equivalent, alternative protection is provided;
- (3) measurements of all rooms to be used for child care and a sketch of the center's floor plan, including ceiling height, location of bathrooms, doors, and required exits; and

- (4) written information to verify compliance with G.S. 110, Article 7 and the Rules in this Chapter as follows:

- (A) emergency medical plan;
- (B) activity plans;
- (C) discipline policy;
- (D) incident reports; and
- (E) incident logs.

(c) During the pre-licensing visits, the applicant or the operator shall be able to describe the plans for the daily program, including room arrangement, staffing patterns, equipment, and supplies, in sufficient detail to show that the center shall comply with applicable requirements for activities, equipment, and staff-child ratios for the capacity of the center and type of license requested.

(d) During the pre-licensing visit the applicant shall have the following available for review pursuant to 10A NCAC 09 .0304(g):

- (1) staff records that include:
  - (A) an application for employment and date of birth;
  - (B) documentation of education, training, and experience;
  - (C) medical and health records;
  - (D) documentation of staff orientation, participation in training, and staff development activities; and
  - (E) required criminal history background check documentation;
- (2) children's records that include an application for enrollment, medical and immunization records, and permission to seek emergency medical care;
- (3) daily attendance records;
- (4) daily records of arrival and departure times at the center for each child which shall be maintained as children arrive and depart;
- (5) records of monthly fire drills documenting the date and time of each drill, the length of time taken to evacuate the building, and the signature of the person who conducted the drill as required by NC Fire Code 405.5; A copy of the form may be found on the Division's website at [http://ncchildcare.ncdhhs.gov/pdf\\_forms/EPR\\_EmergencyDrillLog\\_Centers.pdf](http://ncchildcare.ncdhhs.gov/pdf_forms/EPR_EmergencyDrillLog_Centers.pdf);
- (6) records of monthly playground inspections documented on a checklist provided by the Division; A copy of the form may be found on the Division's website at [http://ncchildcare.ncdhhs.gov/pdf\\_forms/playground.pdf](http://ncchildcare.ncdhhs.gov/pdf_forms/playground.pdf);
- (7) records of administered medications;
- (8) records of lockdown or shelter-in-place drills as defined in 10A NCAC 09 .0102, giving the date each drill was held, the time of day, the length of time taken to get into designated locations and the signature of the person who conducted the drill. A copy of the form may be found on the Division's website at

[https://ncchildcare.ncdhhs.gov/pdf\\_forms/EPR\\_EmergencyDrillLog\\_Centers.pdf](https://ncchildcare.ncdhhs.gov/pdf_forms/EPR_EmergencyDrillLog_Centers.pdf); and

- (9) an electronic mail address for the center.

(e) The Division shall make one or more inspections of the center and premises to assess compliance with all applicable licensure statutes and rules and either:

- (1) issue a single license for the address of the center if all applicable requirements of G.S. 110, Article 7 and this Section are met;
- (2) issue a provisional license pursuant to 10A NCAC 09 .2204; or
- (3) deny the application in accordance with 10A NCAC 09 .2215.

*History Note: Authority G.S. 110-85; 110-86; 110-88(2); 110-88(5); 110-91; 110-91(1), (4) and (5); 110-92; 110-93; 110-99; 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. July 1, 2015; March 1, 2014; August 1, 2011; July 1, 2010; April 1, 2003; April 1, 2001; July 1, 1998; January 1, 1996; November 1, 1989; July 1, 1988; January 1, 1987;*

*Readopted Eff. October 1, 2017;*

*Amended Eff. February 1, 2021; September 1, 2019.*

#### **10A NCAC 09 .0403 TEMPORARY LICENSES FOR CENTERS**

(a) When an operator proposes to open a new center or to change the ownership or location of an existing center, the Division shall issue the operator a temporary license upon the receipt of a license application pursuant to 10A NCAC 09 .0204 or .0302 and the documents specified in 10A NCAC 09 .0301 and .0302.

(b) The temporary license shall be posted in a prominent place in the center that parents are able to view daily.

(c) The temporary license shall remain in effect for six months or until the issuance of a star-rated license, a special provisional license, provisional license, probationary license, summary suspension, suspension, or a denial of a rated license to the operator.

*History Note: Authority G.S. 110-88(10); 110-99; 143B-168.3;*

*Eff. July 1, 1988;*

*Amended Eff. July 1, 1998; April 1, 1992; November 1, 1989;*

*Readopted Eff. October 1, 2017;*

*Amended Eff. February 1, 2021.*

#### **10A NCAC 09 .0601 SAFE ENVIRONMENT**

(a) A safe indoor and outdoor environment shall be provided for the children in care in accordance with rules in this Section.

(b) All equipment and furnishings shall be in good repair. All commercially manufactured equipment and furnishings shall be assembled and installed according to procedures specified by the manufacturer. For equipment and furnishings purchased after September 1, 2017, the manufacturer's instructions shall be kept on file or electronically accessible, if available.

(c) Equipment and furnishings shall be sturdy, stable, and free of hazards that may injure children including sharp edges, lead based or peeling paint, rust, loose nails, splinters, protrusions (excluding nuts and bolts on sides of fences), and pinch and crush points.

(d) All equipment and furnishings not meeting the requirements of Paragraphs (b) and (c) of this Rule shall be removed from the premises immediately or made inaccessible to the children.

(e) Each child care center shall provide equipment and furnishings that are child-size or that can be adapted use by children. Chairs and tables shall be of appropriate height for the children who will be using them.

(f) Each child care center shall be free of lead poisoning hazards as defined in G.S. 130A-131.7(7).

*History Note: Authority G.S. 110-91(3),(6); 143B-168.3; Eff. January 1, 1986; Amended Eff. January 1, 1996; January 1, 1991; Readopted Eff. October 1, 2017; Amended Eff. February 1, 2021.*

**10A NCAC 09 .0606 SAFE SLEEP PRACTICES**

(a) Each center licensed to care for infants aged 12 months or younger shall develop, adopt, and comply with a written safe sleep policy that:

- (1) specifies that caregivers shall place infants aged 12 months or younger on their backs for sleeping, unless:
  - (A) for an infant aged six months or less, the center receives a written waiver of this requirement from a health care professional; or
  - (B) for an infant older than six months, the center receives a written waiver of this requirement from a health care professional, or a parent or a legal guardian;
- (2) specifies no pillows, wedges or other positioners, pillow-like toys, blankets, toys, bumper pads, quilts, sheepskins, loose bedding, towels and washcloths, or other objects may be placed with a sleeping infant aged 12 months or younger;
- (3) specifies that children shall not be swaddled;
- (4) specifies that nothing shall be placed over the head or face of an infant aged 12 months or younger when the infant is laid down to sleep;
- (5) specifies that the temperature in the room where infants aged 12 months or younger are sleeping does not exceed 75° F;
- (6) specifies that caregivers shall visually check, in person, sleeping infants aged 12 months or younger at least every 15 minutes;
- (7) specifies how caregivers shall document compliance with visually checking on sleeping infants aged 12 months or younger;
- (8) specifies that pacifiers that attach to infant clothing shall not be used with sleeping infants;
- (9) specifies that infants aged 12 months or younger sleep alone in a crib, bassinet, play pen, mat, or cot;
- (10) specifies that infants aged 12 months or younger are prohibited from sleeping in sitting devices, including car safety seats, strollers,

swings, and infant carriers. Infants that fall asleep in sitting devices shall be moved to a crib, bassinet, play pen, mat, or cot; and

- (11) specifies any other steps the center shall take to provide a safe sleep environment for infants aged 12 months or younger.

(b) The center shall post a copy of its safe sleep policy about infant safe sleep practices in a prominent place in the infant room where parents and caregivers are able to view daily.

(c) A copy of the center's safe sleep policy shall be given and explained to the parents of an infant aged 12 months or younger on or before the first day the infant attends the center. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain:

- (1) the infant's name;
- (2) the date the infant first attended the center;
- (3) the date the center's safe sleep policy was given and explained to the parent; and
- (4) the date the parent signed the acknowledgement.

The center shall retain the acknowledgement in the child's record as long as the child is enrolled at the center.

(d) If a center amends its safe sleep policy, it shall give written notice of the amendment to the parents of all enrolled infants aged 12 months or younger at least 14 days before the amended policy is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The center shall retain the acknowledgement in the child's record as long as the child is enrolled at the center.

(e) A caregiver shall place a child age 12 months or younger on the child's back for sleeping, unless for a child age 6 months or younger, the operator obtains a written waiver from a health care professional; or for a child older than 6 months, the operator obtains a written waiver from a health care professional or parent. Waivers shall include the following:

- (1) the infant's name and birth date;
- (2) the signature and date of the infant's health care professional or parent;
- (3) if a wedge is needed specify why it is needed and how it is to be used; and
- (4) the infant's authorized sleep positions.

The center shall retain the waiver in the child's record as long as the child is enrolled at the center.

(f) For each infant with a waiver on file at the center as specified in Paragraph (e) of this Rule, a notice shall be posted for quick reference near the infant's crib, bassinet, play pen, cot or mat that shall include:

- (1) the infant's name;
- (2) the infant's authorized sleep position; and
- (3) the location of the signed waiver.

No confidential medical information, including an infant's medical diagnosis, shall be shown on the notice.

(g) Documents that verify staff member's compliance with visual checks on infants shall be maintained for a minimum of one month.

(h) A bed, crib, or cot, equipped with a firm waterproof mattress at least four inches thick and a fitted sheet shall be provided for each child who remains in the center after midnight. The top of bunk beds shall be used by school-age children only.

(i) A caregiver shall not place anything over the face of a child during rest time.

*History Note: Authority G.S. 110-85; 110-91(15); 143B-168.3;*  
*Eff. May 1, 2004;*  
*Amended Eff. July 1, 2010;*  
*Readopted Eff. October 1, 2017;*  
*Amended Eff. February 1, 2021.*

**10A NCAC 09 .0607 EMERGENCY PREPAREDNESS AND RESPONSE IN CHILD CARE CENTERS**

(a) For the purposes of this Rule, the Emergency Preparedness and Response in Child Care is a session training developed by the North Carolina Child Care Health and Safety Resource Center for child care operators and providers on creating an Emergency Preparedness and Response Plan and practicing, responding to and recovering from emergencies in child care centers.

(b) Existing child care centers shall have one person on staff who has completed the Emergency Preparedness and Response in Child Care training. New centers shall have one person on staff who has completed the Emergency Preparedness and Response in Child Care training within one year of the effective date of the initial license. When the trained staff member leaves employment, the center shall ensure that another staff member completes the required training within four months of the vacancy. Documentation of completion of the training shall be maintained in the individual's personnel file or in a file designated for emergency preparedness and response plan documents.

(c) Upon completion of the Emergency Preparedness and Response in Child Care training, the trained staff shall develop the Emergency Preparedness and Response Plan. The Emergency Preparedness and Response Plan means a written plan that addresses how a child care center will respond to both natural and man-made disasters, such as fire, tornado, flood, power failures, chemical spills, bomb threats, earthquakes, blizzards, nuclear disasters, or a dangerous person or persons in the vicinity, to ensure the safety and protection of the children and staff. This Plan must be on a template provided by the Division available at <https://rmp.nc.gov/portal/#> and completed within four months of completion of the Emergency Preparedness and Response in Child Care training.

(d) The Emergency Preparedness and Response Plan shall include:

- (1) written procedures for accounting for all in attendance including:
  - (A) the location of the children, staff, volunteer and visitor attendance lists; and
  - (B) the name of the person(s) responsible for bringing the children, staff, volunteer and visitor attendance lists in the event of an emergency.
- (2) a description for how and when children shall be transported;

- (3) methods for communicating with parents and emergency personnel or law enforcement;
- (4) a description of how children's nutritional and health needs will be met;
- (5) the relocation and reunification process;
- (6) emergency telephone numbers;
- (7) evacuation diagrams showing how the staff, children, and any other individuals who may be present will evacuate during an emergency;
- (8) the date of the last revision of the plan;
- (9) specific considerations for non-mobile children and children with special needs; and
- (10) the location of a Ready to Go File. A Ready to Go File means a collection of information on children, staff and the facility, to utilize, if an evacuation occurs. The file shall include, a copy of the Emergency Preparedness and Response Plan, contact information for individuals to pick-up children, each child's Application for Child Care, medication authorizations and instructions, any action plans for children with special health care needs, a list of any known food allergies of children and staff, staff contact information, Incident Report forms, an area map, and emergency telephone numbers.

(e) The trained staff shall review the Emergency Preparedness and Response Plan annually, or when information in the plan changes, to ensure all information is current.

(f) All staff shall review the center's Emergency Preparedness and Response Plan during orientation and on an annual basis with the trained staff. Documentation of the review shall be maintained at the center in the individual's personnel file or in a file designated for emergency preparedness and response plan documents.

(g) All substitutes and volunteers counted in ratio shall be informed of the child care center's Emergency Preparedness and Response Plan and its location. Documentation of this notice shall be maintained in the individual personnel files or in a file designated for emergency preparedness and response plan documents.

(h) Centers operated by a Local Education Agency that have completed critical incident training and a School Risk Management Plan as set forth by the Department of Public Instruction shall be exempt from Paragraphs (a) through (e) of this Rule. When a School Risk Management Plan has been completed, the requirements of Paragraphs (f) and (g) of this Rule shall be applicable. The School Risk Management Plan shall be available for review by the Division. More information regarding the School Risk Management Plan is located online at <https://sera.nc.gov/srmp/>.

*History Note: Authority G.S. 110-85; 143B-168.3;*  
*Eff. July 1, 2015;*  
*Amended Eff. August 1, 2015;*  
*Readopted Eff. October 1, 2017;*  
*Amended Eff. February 1, 2021.*

**10A NCAC 09 .0701 HEALTH STANDARDS FOR CHILD CARE PROVIDERS, SUBSTITUTE PROVIDERS, VOLUNTEERS, AND UNCOMPENSATED PROVIDERS**

(a) Health and emergency information shall be obtained for staff members as specified in the chart below:

<b>Required for:</b>	<b>Item Requirements:</b>	<b>Due Date:</b>
Child care providers and uncompensated providers who are not substitute providers or volunteers as defined in 10A NCAC 09 .0102, including the director.	Medical Report  A statement signed by a health care professional that indicates that the person is emotionally and physically fit to care for children.	Prior to employment.  When submitted, the medical statement shall not be older than 12 months.
All staff, including the director and individuals who volunteer more than once per week.	Tuberculin (TB) Test or Screening  The results indicating the individual is free of active tuberculosis shall be obtained within the 12 months prior to the date of employment.	On or before first day of work.
Child care providers, including the director, uncompensated providers, substitute providers, and volunteers.	Emergency Information Form, including the name, address, and telephone number of the person to be contacted in case of an emergency, and the responsible party's choice of health care professional.	On or before the first day of work.  The emergency information shall be updated as changes occur and at least annually.
All staff, including the director.	Health Questionnaire  A statement signed by the staff member that indicates that the person is emotionally and physically fit to care for children.	Annually following the initial medical statement.
Substitute providers and volunteers.	Health Questionnaire  A statement signed by the substitute provider or volunteer that indicates that the person is emotionally and physically fit to care for children.	On or before first day of work and annually thereafter.

(b) The Division, or the director of the child care center, may request an evaluation of a staff member's emotional and physical fitness to care for children when there is reason to believe that there has been deterioration in the staff member's emotional or physical fitness to care for children. This request may be based upon factors such as observations by the director or center staff, reports of concern from family, reports from law enforcement or reports from medical personnel.

(c) A copy of the forms in the chart in Paragraph (a) of this Rule may be found on the Division's website at [http://ncchildcare.ncdhhs.gov/providers/pv\\_provideforms.asp](http://ncchildcare.ncdhhs.gov/providers/pv_provideforms.asp).

(d) Staff medical statements, proof of a tuberculosis test or screening, and completed health questionnaires shall be included in the staff member's medical file, which must be maintained separately from the staff member's individual personnel file in the center.

*History Note: Authority G.S. 110-85; 110-91(1),(8),(9); 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. July 1, 2010; July 1, 1998;*

*Readopted Eff. October 1, 2017;*

*Amended Eff. February 1, 2021.*

#### **10A NCAC 09 .0713 STAFF/CHILD RATIOS FOR CENTERS**

(a) The staff/child ratios and group sizes for single-age groups of children in centers shall be as follows:

Age of Children	Ratio Staff/Children	Maximum Group Size
0 to 12 Months	1/5	10
12 to 24 Months	1/6	12
2 to 3 Years	1/10	20
3 to 4 Years	1/15	25
4 to 5 Years	1/20	25
5 Years and Older	1/25	25

- (1) when combining age groups, the staff/child ratio for the youngest child in the group shall be maintained for the entire group;
- (2) children of all ages may be cared for together in groups for the first and last operating hour of the day, provided the staff/child ratio for the youngest child in the group is maintained;
- (3) a child two years of age and older may be placed with children under one year of age



- when a physician certifies that the developmental age of the child makes this placement appropriate;
- (4) when determined to be developmentally appropriate by the operator and parent, a child age two or older may be placed one age level above his or her chronological age without affecting the staff/child ratio for that group. This provision shall be limited to one child per group;
- (5) except as provided in Subparagraphs (2) and (3) of this Paragraph, children under one year of age shall be kept separate from children two years of age and over;
- (6) children between the ages of 12 months and 24 months shall not be grouped with older children unless all children in the group are less than three years of age;
- (7) when only one caregiver is required to meet the staff/child ratio and no children under two years of age are in care, that caregiver may concurrently perform food preparation or other duties that are not direct child care responsibilities as long as supervision of the children as specified in 10A NCAC 09 .1801 is maintained;
- (8) except as provided in Subparagraph (7) of this Paragraph, staff members and child care administrators who are counted in meeting the staff/child ratios as stated in this Rule shall not concurrently perform food preparation or other duties that are not direct child care responsibilities; and
- (9) when only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:
- (A) the center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief; or
- (B) there shall be a second adult on the premises who is available to provide emergency relief.
- (10) the staff/child ratio applicable to a classroom as described in this Paragraph shall be posted in that classroom in an area that parents are able to view at all times.

(b) The staff/child ratios for a center located in a residence with a licensed capacity of 3 to 12 children when any preschool-age child is enrolled, or with a licensed capacity of 3 to 15 children when only school-age children are enrolled, are as follows:

Age of Children	Ratio Staff/Children
0 to 12 Months	1/5 preschool children plus three additional school-age children
12 to 24 Months	1/6 preschool children plus two additional school-age children
2 to 13 Years	1/10
3 to 13 Years	1/12
All school-age	1/15

(c) The staff/child ratio applicable to a classroom for a center located in a residence as described in Paragraph (b) of this Rule shall be posted in that classroom in an area that parents are able to view at all times.

(d) When only one caregiver is required to meet the staff/child ratio for a center located in a residence, as described in Paragraph (b) of this Rule and children under two years of age are in care, that person shall not concurrently perform food preparation or other duties that are not direct child care responsibilities.

(e) When only one caregiver is required to meet the staff/child ratio for a center located in a residence, as described in Paragraph (b) of this Rule the operator shall select one of the following options for emergency relief:

- (1) the center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief and who can respond within a reasonable period of time; or
- (2) there shall be a second adult on the premises who is available to provide emergency relief.

(f) Upon the Division's receipt of a written request, a center may choose to group children in multi-age groups rather than single-aged groups. The staff/child ratios and group sizes for multi-age groups of children in centers shall be as follows:

Age of Children	Ratio Staff/Children	Maximum Group Size
0 to 3 years of age	1/4	8
12 months to 36 months	1/5	10
24 months to 60 months	1/6	10

- (1) Before meeting the ratios outlined in this Paragraph or before changing from multi-age group ratios to single-age group ratios, the Division must be notified in writing;
- (2) Paragraphs (a) through (e) of this Rule do not apply to centers that choose to meet the ratios outlined in this Paragraph; and
- (3) The staff/child ratio applicable for a multi-age group as described in this Paragraph shall be posted in that classroom in an area that parents are able to view at all times.

*History Note: Authority G.S. 110-85; 110-91(7); 143B-168.3; Eff. December 1, 1988;*  
*Amended Eff. January 1, 2006; July 1, 1998; July 1, 1994;*  
*January 1, 1992; August 1, 1990; November 1, 1989;*  
*Readopted Eff. October 1, 2017;*  
*Amended Eff. February 1, 2021.*

**10A NCAC 09 .0801 APPLICATION FOR ENROLLMENT**

(a) Each child in care shall have an individual application for enrollment completed and signed by the child's parent, as defined in 10A NCAC 09 .0102. The completed, signed application shall be on file in the center on the first day the child attends and shall include the following information:

- (1) emergency medical information as set forth in Rule .0802(c) of this Section;
- (2) the child's full name and the name the child is to be called;
- (3) the child's date of birth;
- (4) any allergies and the symptoms and type of response required for allergic reactions;
- (5) any health care needs or concerns, symptoms of and the type of response required for these health care needs or concerns;
- (6) fears or behavior characteristics that the child has; and
- (7) the names of individuals to whom the center may release the child, as authorized by the person who signs the application.

(b) For any child with health care needs such as allergies, asthma, or other chronic conditions that require specialized health services, a medical action plan shall be attached to the application. The medical action plan shall be completed by the child's parent or a health care professional and may include the following:

- (1) a list of the child's diagnosis or diagnoses including dietary, environmental, and activity considerations that are applicable;
- (2) contact information for the child's health care professional(s);
- (3) medications to be administered on a scheduled basis; and
- (4) medications to be administered on an emergency basis with symptoms, and instructions.

The medical action plan shall be updated on an annual basis and when changes to the plan are made by the child's parent or health care professional. Sample medical action plans may be found on the Division's website at

[http://ncchildcare.ncdhhs.gov/providers/pv\\_provideforms.asp](http://ncchildcare.ncdhhs.gov/providers/pv_provideforms.asp);

(c) Center administrators and staff shall release a child only to an individual listed on the application.

(d) The information contained in Subparagraphs (a)(1) through (a)(7) and Paragraph (b) of this Rule, shall be accessible to caregiving staff during the time the child is in care.

(e) Center administrators and staff shall use the information provided on the application to ensure that each individual child's needs are met during the time the child is in care.

*History Note: Authority G.S. 110-88; 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. November 1, 1989;*

*Temporary Amendment Eff. September 23, 2016;*

*Readopted Eff. October 1, 2017;*

*Amended Eff. February 1, 2021; September 1, 2019.*

**10A NCAC 09 .0802 EMERGENCY MEDICAL CARE**

(a) Each child care center shall have a written plan that sets forth the steps to follow in the event of a child medical emergency. The plan shall be reviewed with all staff annually and whenever the plan is revised. This plan shall give the procedures to be followed to ensure that any child who becomes ill or is injured and requires medical attention while in care at the center receives appropriate medical attention. The following information shall be included in the center's emergency medical care plan:

- (1) The name of the person and at least one alternate, responsible for carrying out that plan of action, ensuring that appropriate medical care is given, and determining which of the following is needed:
  - (A) first aid given at the center for an injury or illness needing only minimal attention; and
  - (B) calling 911 in accordance with CPR or First Aid training recommendations.
- (2) The name of the person and one alternate, at the center responsible for:
  - (A) ensuring that the signed authorization described in Paragraph (d) of this Rule is taken with the ill or injured child to the medical facility;
  - (B) accompanying the ill or injured child to the medical facility;
  - (C) notifying a child's parents or emergency contact person about the illness or injury and where the child has been taken for treatment;
  - (D) obtaining substitute staff, if needed, to maintain required staff/child ratio and adequate supervision of children who remain in the center; and
- (3) A statement giving the location of the telephone located on the premises available for use in case of emergency. A telephone located in an office in the center that is sometimes locked during the time the children are present shall not be designated for use in an emergency.

(b) One person identified as the person or alternate responsible for carrying out the emergency medical care plan and ensuring that appropriate medical care is given shall:

- (1) be on the premises at all times; and
- (2) accompany children for off-premises activities.

(c) Emergency medical care information shall be on file for each child. That information shall include:

- (1) the name, address, and telephone number of the parent or other person to be contacted in case of an emergency;
- (2) the responsible party's choice of health care professional;
- (3) any chronic illness and any medication taken for that illness; and
- (4) any other information that has a direct bearing on ensuring safe medical treatment for the child.

This emergency medical care information shall be on file in the center on the child's first day of attendance and shall be updated as changes occur and at least annually.

(d) Each child's parent, legal guardian, or full-time custodian shall sign a statement authorizing the center to obtain medical attention for the child in an emergency. That statement shall be on file on the first day the child attends the center. It shall be easily accessible to staff so that it can be taken with the child whenever emergency medical treatment is necessary.

(e) The child care provider shall complete an incident report each time a child is injured as a result of an incident occurring while the child is in care. This incident report shall include:

- (1) facility identifying information;
- (2) the child's name;
- (3) date and time of the incident;
- (4) witness to the incident;
- (5) time the parent is notified of the incident and by whom;
- (6) piece of equipment involved, if applicable;
- (7) cause of injury, if applicable;
- (8) type of injury, if applicable;
- (9) body part injured, if applicable;
- (10) where the child received medical treatment, if applicable;
- (11) description of how and where the incident occurred, and the First Aid received; and
- (12) steps taken to prevent reoccurrence.

This report shall be signed by the person completing it and by the parent, a copy given to the parent or the parent declining a copy and the report maintained in the child's file. A copy of the form may be found on the Division's website at [http://ncchildcare.ncdhhs.gov/pdf\\_forms/DCDEE-0058.pdf](http://ncchildcare.ncdhhs.gov/pdf_forms/DCDEE-0058.pdf).

(f) When medical treatment is required by a health care professional, community clinic, or local health department as a result of an incident occurring while the child is in care, a copy of the incident report shall be mailed to a representative of the Division within seven calendar days after the incident.

(g) An incident log shall be completed any time an incident report is completed. This log shall:

- (1) include the name of the child;
- (2) include the date of the incident;
- (3) include the date the incident report was submitted to the Division, if applicable;
- (4) include the name of the staff member who complete the incident report;
- (5) be cumulative and maintained in a separate file; and
- (6) be available for review by a representative of the Division.

This log shall be completed on a form provided by the Division. A copy of the log may be found on the Division's website at [https://ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/1/incident\\_log\\_i.pdf?ver=2017-05-16-105723-723](https://ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/1/incident_log_i.pdf?ver=2017-05-16-105723-723).

(h) A First Aid information sheet shall be posted in a place for referral. The information sheet shall include first aid guidance regarding burns, scalds, fractures, sprains, head injuries, poisons, skin wounds, stings and bites. An information sheet may be requested free of charge from the North Carolina Child Care Health and Safety Resource Center at 1-800-367-2229.

*History Note: Authority G.S. 110-85; 110-91(1),(9); 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. July 1, 2010; July 1, 1998; January 1, 1996; October 1, 1991; November 1, 1989;*

*Readopted Eff. October 1, 2017;*

*Amended Eff. February 1, 2021; September 1, 2019.*

### **10A NCAC 09 .1103 ON-GOING TRAINING AND PROFESSIONAL DEVELOPMENT**

(a) After the first year of employment, the child care administrator and any staff who have responsibility for planning and supervising a child care center, and staff who work with children, shall participate in on-going training activities annually, as follows:

Education and Experience	Required Training
Four-year degree or higher advanced degree in a child care related field of study from a regionally accredited college or university	5 clock hours
Two-year degree in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Administration Credential	8 clock hours
Certificate or diploma in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Credential	10 clock hours
10 years documented experience as a teacher, director, or caregiver in a licensed child care arrangement	15 clock hours
If none of the other criteria in this chart apply	20 clock hours

(b) Health and safety training shall be completed as part of on-going training so that every five years, all of the topic areas set forth in 10A NCAC 09 .1102(b) will have been covered.

(c) Completion of cardiopulmonary resuscitation (CPR) and First Aid training shall not be counted toward meeting annual on-going training requirements.

(d) Any staff working less than 40 hours per week may choose to complete on-going training requirements as outlined in Paragraph (a) of this Rule, or the training requirement may be prorated as follows:

WORKING HOURS PER WEEK	CLOCK HOURS REQUIRED
11-20	10
21-30	15
31-40	20

(e) For purposes of this Rule, "regionally accredited" means a college or university accredited by one of the following accrediting bodies:

- (1) Middle States Association of Colleges and Schools;

- (2) New England Association of School and Colleges;
- (3) North Central Association of Colleges and Schools;
- (4) Northwest Accreditation Commission;
- (5) Southern Association of Colleges and Schools; or
- (6) Western Association of Schools and Colleges.

(f) For every three hours of countable technical assistance provided, one hour may be counted toward annual training requirements set forth in Paragraph (a) of this Rule, not to exceed 50 percent of the total required so long as:

- (1) the child care center has a 3-5 star rated license; and
- (2) the participating administrator or staff member has earned at least 18 semester hours in early childhood education.

(g) For purposes of this Section, "countable technical assistance" means technical assistance provided to administrative or caregiving staff members at a child care center by a person who has been endorsed by the NC Institute for Child Development Professionals as a technical assistance provider and shall include:

- (1) a cycle of observation;
- (2) identified goals based on the observation;
- (3) a timeline for completion of identified goals;
- (4) evaluation and feedback for each participant;
- (5) technical assistance time in the classroom; and
- (6) one-on-one consultation with each participant at a time when they are not responsible for a child or group of children.

(h) A combination of college coursework, Continuing Education Units (CEU's), clock hours, or countable technical assistance shall be used to complete the requirements in Paragraph (a) of this Rule.

*History Note: Authority G.S. 110-85; 110-91(11); 143B-168.3; Eff. October 1, 2017; Amended Eff. February 1, 2021.*

**10A NCAC 09 .1106 DOCUMENTATION OF ON-GOING TRAINING AND PROFESSIONAL DEVELOPMENT**

(a) Each center shall have a record of training activities in which each staff member participates, including copies of training certificates or official documentation provided by the trainer. That record shall include the subject matter, topic area in G.S. 110-91(11), training provider, date provided, hours, and name of staff who completed the training. This documentation shall be on file and current.

(b) Each center shall have a record of countable technical assistance in which each staff member participates, including copies of documentation, observations and evaluations provided by the person who has been endorsed by the NC Institute for Child Development Professionals as a technical assistance provider. That record shall include the dates and times of technical assistance with staff, names of all participating staff members and the name of the technical assistance provider. This documentation shall be on file and current.

*History Note: Authority G.S. 110-85; 110-91(9),(11); 143B-168.3; Eff. January 1, 1986; Amended Eff. July 1, 1998; July 1, 1988; Readopted Eff. October 1, 2017 (Transferred from 10A NCAC 09 .0709); Amended Eff. February 1, 2021.*

**10A NCAC 09 .1402 OUTDOOR SPACE**

(a) The outdoor play area shall be no smaller than 75 square feet for each child using the outdoor learning environment at any one time.

(b) Paragraph (a) of this Rule apply only to child care centers initially licensed after April 1, 1984.

(c) The outdoor play area shall provide an area that is shaded by a building, awnings, trees, or other methods.

(d) The outdoor area shall be designed so that staff is able to adequately supervise the entire area in accordance with 10A NCAC 09 .1801(a).

*History Note: Authority G.S. 110-85(1),(2); 110-91(6); 143B-168.3; Eff. January 1, 1986; Amended Eff. January 1, 1996; Readopted Eff. October 1, 2017; Amended Eff. February 1, 2021.*

**10A NCAC 09 .1403 ACTIVITIES INVOLVING WATER IN CHILD CARE CENTERS**

(a) The requirements in this Rule apply to child care center "aquatic activities," which are defined as activities that take place in or around a body of water such as swimming, swimming instruction, wading, and visits to water parks. Aquatic activities do not include water play activities such as water table play, slip and slide activities, or playing in sprinklers.

(b) Aquatic activities involving the following are prohibited:

- (1) hot tubs;
- (2) spas;
- (3) saunas or steam rooms;
- (4) portable wading pools; and
- (5) natural bodies of water and other unfiltered, nondisinfected containments of water.

(c) For every 25 children in care participating in aquatic activities, there shall be at least one person who has a life guard training certificate issued by the Red Cross or other training determined by the Division to be equivalent to the Red Cross training, appropriate for both the type of body of water and type of aquatic activity. These lifeguards shall not be counted in the required staff/child ratios referenced in Paragraph (e) of this Rule.

(d) Children under the age of three shall not participate in aquatic activities except to the extent necessary to implement any child's Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP).

(e) The following staff/child ratios shall be maintained whenever children participate in aquatic activities:

Age of Children	Ratio Staff/Children
3 to 4 Years	1/8
4 to 5 Years	1/10
5 Years and Older	1/13

Notwithstanding the staff/child ratios, at no time shall there be fewer than two staff members supervising the aquatic activity.

(f) Children shall be adequately supervised by center staff at all times while participating in aquatic activities. For purposes of this Rule, "Adequate supervision" means that half of the center staff needed to meet the staff/child ratios in Paragraph (e) of this Rule is in the water and the other half is out of the water. If an uneven number of staff are needed to meet the required staff/child ratios, the majority shall be in the water. Staff shall be stationed in pre-assigned areas that will enable them at all times to hear, see, and respond to the children whether in or out of the water. Children shall not enter the water before center staff are stationed in their pre-assigned areas. Center staff shall devote their full attention to supervising the children in their pre-assigned areas of coverage and shall communicate with one another about children moving from one area to another area.

(g) Prior to children participating in aquatic activities, the center shall develop policies that address the following:

- (1) aquatic safety hazards;
- (2) pool and aquatic activity area supervision including restroom or changing room use;
- (3) how discipline will be handled during aquatic activities;
- (4) the facility's off-premises and transportation policies and procedures; and
- (5) that children shall be directed to exit the water during an emergency.

(h) Before staff first supervise children on an aquatic activity, and annually thereafter, staff shall sign and date statements that they have reviewed:

- (1) the center policies as specified in Paragraph (g) of this Rule;
- (2) any guidelines provided by the pool operator or other off-site aquatic facility; and
- (3) the requirements of this Rule.

The statement shall be maintained in the staff person's personnel file for one year or until it is superseded by a new statement.

(i) Centers shall obtain written permission from parents for participation in aquatic activities. The written permission shall include a statement that parents are aware of the center's aquatic policies specified in Paragraph (g) of this Rule. The center shall maintain copies of written parental permission in each child's file.

(j) Any outdoor swimming pool located on the child care center premises shall be enclosed by a fence that is at least four feet high, separated from the remaining outdoor play area by that fence, and locked and inaccessible to children when not in use.

(k) Swimming pool safety rules shall be posted and visible to children and staff for any swimming pool located on the child care center premises. These rules shall state:

- (1) the location of a First Aid kit;
- (2) that only water toys are permitted;
- (3) that children are not allowed to run or push one another;
- (4) that swimming is allowed only when at least two adults are present; and
- (5) that glass objects are not allowed.

(l) All swimming pools used by children shall meet the "Rules Governing Public Swimming Pools" in accordance with 15A NCAC 18A .2500 which are incorporated by reference, including

subsequent amendments. A copy of these Rules can be found at <http://ehs.ncpublichealth.com/docs/rules/294306-9-2500.pdf> and is available at no charge.

(m) Educational activities, such as observing tadpoles, exploring mud, or learning about rocks and vegetation shall be permitted.

(n) Boating, rafting, and canoeing activities are permitted. Prior to participating in recreational activities conducted on the water, children shall wear an age or size appropriate personal floatation device approved by the United States Coast Guard. This personal floatation device shall be worn for the duration of the activity.

*History Note: Authority G.S. 110-85; 110-88(5); 110-91(1),(6); 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. July 1, 2010; November 1, 2007; January 1, 1996; January 1, 1992; January 1, 1987;*

*Readopted Eff. October 1, 2017;*

*Amended Eff. February 1, 2021.*

### **10A NCAC 09 .1702 APPLICATION FOR A LICENSE FOR A FAMILY CHILD CARE HOME**

(a) Any person who plans to operate a family child care home (FCCH) shall apply for a license using a form provided by the Division. Only one licensed family child care home shall operate at the location address of any home. The form can be found on the Division's website at [https://ncchildcare.nc.gov//PDF\\_forms/Family\\_Child\\_Care\\_Home\\_Application\\_Packet.pdf](https://ncchildcare.nc.gov//PDF_forms/Family_Child_Care_Home_Application_Packet.pdf). The application for a family child care home license shall include the following information:

- (1) owner name;
- (2) facility name, address, phone number, email address, and location address;
- (3) facility contact information;
- (4) requested age range of children in the child care center;
- (5) hours of operation;
- (6) type of care to be provided;
- (7) type of building;
- (8) type of family child care home;
- (9) proposed opening date;
- (10) proposed number of children to be served;
- (11) type of business operation;
- (12) history of operation or licensing of child care facilities; and
- (13) signature of applicant of either:
  - (A) the individual who will be responsible for the operation of the family child care home and for assuring compliance with G.S. 110, Article 7 and this Chapter; or
  - (B) an officer of an entity who will be responsible for the operation of the family child care home and for ensuring compliance with G.S. 110, Article 7 and this Chapter.

Upon receipt of the application, the Division shall assess the information provided to determine if the prospective licensee may be denied a license for one or more of the reasons set forth in 10A NCAC 09 .2215.

(b) The applicant for a family child care home license shall also submit supporting documentation with the application for a license to the Division. The supporting documentation shall include:

- (1) a copy of a non-expired qualification letter in accordance with 10A NCAC 09 .2702;
- (2) a copy of documentation of completion of a First Aid and cardiopulmonary resuscitation (CPR) course within 12 months prior to applying for a license;
- (3) a copy of documentation of completion of ITS-SIDS training within 12 months prior to applying for a license, if requesting a license to care for infants ages 12 months and younger;
- (4) proof of negative results of the applicant's tuberculosis test or screening completed within the past 12 months;
- (5) a completed health questionnaire; a copy of the health questions can be found on the Division's website,  
[http://ncchildcare.nc.gov/pdf\\_forms/emergency\\_information\\_health\\_questionnaire\\_i.pdf](http://ncchildcare.nc.gov/pdf_forms/emergency_information_health_questionnaire_i.pdf) and includes a statement signed by the staff member that indicates that the person is emotionally and physically fit to care for children;
- (6) a copy of non-expired pet vaccinations for any pet in the home;
- (7) if a home has a private well, a negative well water bacteriological analysis;
- (8) copies of any inspections required by local ordinances; and
- (9) any other documentation required by the Division according to the rules in this Section to support the issuance of a license.

(c) Upon receipt of a complete application for a family child care home and supporting documentation, a Division representative shall make an announced visit to each home. An announced visit shall not be required by a Division representative if the applicant is subject to the circumstances in 10A NCAC 09 .2214. The issuance of a license applies as follows:

- (1) if all applicable requirements of G.S. 110, Article 7 and this Section are met, a six month temporary license shall be issued;
- (2) a one- star rated license shall be issued to a family child care home operator who complies with the minimum standards for a license contained in this Section and G.S. 110-91 at the end of the six month temporary time period;
- (3) a two- through five- star rated license shall be issued to a family child care home operator who complies with minimum and voluntary standards for a license contained in this Section, Section .2800 of this Chapter and G.S. 110-91, at the end of the six month temporary time period;
- (4) if the applicable requirements of G.S. 110, Article 7 and this Section are not met, the Division representative shall establish with the applicant a time period for the home to achieve

compliance. If the Division representative determines that all applicable requirements of G.S. 110, Article 7 and this Section are met within the established time period, a license shall be issued; or

- (5) The temporary license shall remain in effect for six months or until the issuance of a star-rated license, a special provisional license, provisional license, summary suspension, suspension, probationary license, or a denial of a rated license to the operator.

(d) A family child care home operator shall notify the Division no later than 30 calendar days prior to relocation of a family child care home. The operator must apply for a license for the new physical location as described in Paragraph (a) of this Rule. An operator requesting relocation of the family child care home shall not operate until he or she has received a license from the Division for the new location.

(e) When a family child care home operator wants to change ownership of the program, the prospective new operator shall apply for a new license in accordance with Paragraph (a) of this Rule, at least 30 days before the change occurs. The family child care home license shall not be bought, sold, or transferred from one individual to another.

(f) The family child care home license shall be valid only for the location address listed on it.

(g) The family child care home license shall be returned to the Division in the event of termination, revocation, suspension, or summary suspension.

(h) A family child care home licensee shall notify the Division in writing if a change occurs that affects the information shown on the license. The Division shall issue a new license upon verification of the operator's compliance with all applicable requirements in this Section for the change. This includes the following:

- (1) decreasing the capacity of the family child care home;
- (2) increasing the capacity of the family child care home;
- (3) changes to shifts of care;
- (4) requests to change the age range of the family child care home;
- (5) requests to remove a restriction from the license, including documentation of steps taken by the operator to comply with requirements which resulted in the licensure restriction; and
- (6) changes to the operator's legal name.

(i) The family child care home license shall be posted in a place in the home that parents are able to view daily.

*History Note: Authority G.S. 110-88(5); 110-86; 110-91; 110-93; 110-99; 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. March 1, 2014; December 1, 2012; August 1, 2011; July 1, 2010; April 1, 2003; April 1, 2001; July 1, 1998; January 1, 1991; November 1, 1989; January 1, 1987;*

*Temporary Amendment Eff. September 23, 2016;*

*Readopted Eff. October 1, 2017;*

*Amended Eff. February 1, 2021; September 1, 2019.*

**10A NCAC 09 .1703 ON-GOING REQUIREMENTS  
FOR FAMILY CHILD CARE HOME OPERATORS**

(a) After receiving a license, family child care home operator shall:

- (1) Update the health questionnaire annually. The Division may request an evaluation of the operator's emotional and physical fitness to care for children when there is reason to believe that there has been a deterioration in the operator's emotional or physical fitness to care for children. This request may be based upon factors such as observations by the director or center staff, reports of concern from family, reports from law enforcement or reports from medical personnel. The Division may require the operator to obtain written proof that he or she is free of active tuberculosis when the Division determines that the operator was exposed to a person with active tuberculosis;
- (2) Renew First Aid training on or before expiration of the certification appropriate for the ages of children in care;
- (3) Renew CPR course on or before the expiration of the certification appropriate for the ages of children in care;
- (4) Renew ITS-SIDS training every three years from the completion of previous ITS-SIDS training; and
- (5) Complete Recognizing and Responding to Suspicions of Child Maltreatment training within 90 days of licensure. This training shall count toward requirements set forth in Paragraph (d) of this Rule. Recognizing and Responding to Suspicions of Child Maltreatment training is available at <https://www.preventchildabusenc.org/>.

(b) Family child care home operators and staff members shall complete health and safety training within one year of employment, unless the operator or staff member has completed the training within the year prior to beginning employment or within the year prior to receiving a license. Health and safety training shall be in addition to the pre-licensing visit and new staff orientation requirements set forth in Rules .1702(d) and .1729(c) of this Section. The following persons shall be exempt from this requirement:

- (1) service providers such as speech therapists, occupational therapists, and physical therapists; and
- (2) substitutes who provide services for less than 10 days in a 12-month period.

(c) The health and safety training shall include the following topic areas:

- (1) Prevention and control of infectious diseases, including immunization;
- (2) Administration of medication, with standards for parental consent;
- (3) Prevention of and response to emergencies due to food and allergic reactions;

- (4) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- (5) Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event;
- (6) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants;
- (7) Precautions in transporting children, if applicable;
- (8) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (9) CPR and First Aid training as required in Rule .1102(c) and (d) of this Chapter;
- (10) Recognizing and reporting child abuse, child neglect, and child maltreatment; and
- (11) Prevention of sudden infant death syndrome and use of safe sleeping practices.

(d) After the first year of employment, the family child care home operator, and staff who work with children shall complete on-going training activities as follows:

(1)

Education and Experience	Required Training
Four-year degree or higher advanced degree in a child care related field of study from a regionally accredited college or university	5 clock hours
Two-year degree in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Administration Credential	8 clock hours
Certificate or diploma in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Credential	10 clock hours
10 years documented experience as a teacher, director, or caregiver in a licensed child care arrangement	15 clock hours
If none of the other criteria in this chart apply	20 clock hours

- (2) complete health and safety training as part of on-going training so that every five years, all the topic areas set forth in Paragraph (c) of this Rule will have been covered;
- (3) cardiopulmonary resuscitation (CPR) and First Aid training shall not be counted toward meeting annual on-going training activities in Subparagraph (d)(1) of this Rule;
- (4) any staff working less than 40 hours per week may choose to complete on-going training requirements as outlined in Paragraph (d)(1) of this Rule or the training requirement may be prorated as follows:

WORKING HOURS PER WEEK	CLOCK HOURS REQUIRED
0-10	5
11-20	10
21-30	15
31-40	20

(e) For purposes of this Rule, "regionally accredited" means a college or university accredited by one of the following accrediting bodies:

- (1) Middle States Association of Colleges and Schools;
- (2) New England Association of School and Colleges;
- (3) North Central Association of Colleges and Schools;
- (4) Northwest Accreditation Commission;
- (5) Southern Association of Colleges and Schools; or
- (6) Western Association of Schools and Colleges.

(f) For every three hours of countable technical assistance provided, one hour may be counted toward annual training requirements set forth in Subparagraph(d)(1) of this Rule, not to exceed 50 percent of the total required so long as:

- (1) the family child care home has a 3-5 star rated license; and
- (2) the participating operator or staff member has earned at least 18 semester hours in early childhood education.

(g) For purposes of this Rule, "countable technical assistance" means technical assistance provided to operator or caregiving staff members at a family child care home by a person who has been endorsed by the NC Institute for Child Development Professionals as a technical assistance provider and shall include:

- (1) a cycle of observation;
- (2) identified goals based on the observation;
- (3) a timeline for completion of identified goals;
- (4) evaluation and feedback for each participant;
- (5) technical assistance time in the family child care home; and
- (6) one-on-one consultation with each participant at a time when they are not responsible for a child or group of children.

(h) A combination of college coursework, Continuing Education Units (CEU's), clock hours, or countable technical assistance shall be used to complete the requirements in Subparagraph (d)(1) of this Rule.

(i) The family child care home operator and staff members shall complete a professional development plan within one year of employment and at least thereafter. The plan shall:

- (1) document the individual's professional development goals;
- (2) be appropriate for the ages of children in their care;
- (3) include the continuing education, coursework or training needed to meet the individual's planned goals;
- (4) be completed by the operator and staff member in a collaborative manner; and

- (5) be maintained in their personnel file.

Sample professional development plan templates may be found on the Division's website at [http://ncchildcare.nc.gov/providers/pv\\_provideforms.asp](http://ncchildcare.nc.gov/providers/pv_provideforms.asp).

Another form may be used other than the sample templates provided by the Division as long as the form includes the information set forth in this Rule.

(j) Each family child care home operator shall have a record of training activities in which each staff member participates, including copies of training certificates or official documentation provided by the trainer. That record shall include the subject matter, topic area in G.S. 110-91(11), training provider, date provided, hours, and name of staff who completed the training. This documentation shall be on file and current.

(k) Each family child care home operator shall have a record of countable technical assistance in which the operator and each staff member participates, including copies of documentation, observations and evaluations provided by the person who has been endorsed by the NC Institute for Child Development Professionals as a technical assistance provider. That record shall include the dates and times of technical assistance with the operator or staff, names of all participating staff members and the name of the technical assistance provider. This documentation shall be on file and current.

(l) The family child care home operator and staff members may meet on-going training requirements by attending child-care workshops, conferences, seminars, or courses, provided each training activity satisfies the following criteria:

- (1) Prior approval from the Division shall not be required for training offered by a college or university with nationally recognized regional accreditation, a government agency, or a state, or international professional organization or its affiliates, provided the content complies with G.S. 110-91(11). Government agencies or state or national professional organizations who provide training shall submit an annual training plan for review by the Division. The plan is not required for any state, national, or international conferences sponsored by a professional child care organization.

- (2) Prior approval from the Division shall be required for any agencies, organizations, or individuals not specified in Subparagraph (1) of this Paragraph who wish to provide training for child care operators and staff. To obtain such approval, the agency, organization, or individual shall:

- (A) complete and submit on-going training approval forms provided by the Division 15 business days prior to the training event that includes the name and qualifications of the trainer, name of training, target audience and content of the training;
- (B) submit a training roster, to the Division, listing the attendees' name, the county of employment, and day



- time phone number no later than 15 days after the training event;
- (C) provide training evaluations to be completed by attendees; and
- (D) keep the training rosters and evaluations on file for two years.

- (3) Distance learning shall be permitted from trainers approved by the Division or offered by an accredited post-secondary institution, as listed on the United States Department of Education's Database of Accredited Post-Secondary Institutions and Programs at <http://ope.ed.gov/accreditation/>. Distance learning shall not be permitted for Cardiopulmonary Resuscitation (CPR) and First Aid.

(m) The Division shall approve training based upon the following factors:

- (1) the trainer's education, training, and experience relevant to the training topic;
- (2) content that is in compliance with G.S. 110-91(11); and
- (3) contact hours for the proposed content and scope of the training session.

(n) The Division shall deny approval of training to:

- (1) Agencies, organizations, or individuals not meeting the standards listed in this Rule and in G.S. 110-91(11); and
- (2) Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division.

(o) Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division pursuant to this Rule shall be permanently ineligible to apply for approval of training.

(p) Denial of approval of training or a determination of falsification is appealable pursuant to G.S. 110-94 and the North Carolina Administrative Procedure Act, G.S. 150B-23.

*History Note: Authority G.S. 110-85; 110-88; 110-91; 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. July 1, 2015; July 1, 2008; May 1, 2004; July 1, 1998; November 1, 1989; January 1, 1987;*

*Temporary Amendment Eff. September 23, 2016;*

*Readopted Eff. October 1, 2017 (Transferred from 10A NCAC 09 .1705);*

*Amended Eff. February 1, 2021.*

#### **10A NCAC 09 .1706 NUTRITION STANDARDS**

(a) Meals and snacks served to children in a Family Child Care Home shall comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food, number, and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in

Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available online at <https://www.fns.usda.gov/cacfp/meals-and-snacks> at no cost.

(b) When children bring their own food for meals and snacks to the program, if the food does not meet the nutritional requirements specified in Paragraph (a) of this Rule, the operator must provide additional food necessary to meet those requirements.

(c) A child's parent may opt out of the supplemental food provided by the operator as set forth in G.S. 110-91(2) h.1. When a child's parent opts out of the supplemental food provided by the family child care home, the operator shall obtain the parents signature acknowledging the parental decision and shall maintain the acknowledgment in the child's file at the home and provide a copy to the parent. A child's parent may opt out of the supplemental food provided by the family child care home, subject to the following:

- (1) the operator shall not provide any food or drink so long as the child's parent or guardian provides all meals, snacks, and drinks scheduled to be served at the program's designated times;
- (2) the opt out ability is not available for specific meals or days based on menu options;
- (3) if a child requests specific foods being served to other children, but the parent has opted out, the operator shall not serve supplemental food; and
- (4) if the child's parent has opted out, but does not provide all meals and snacks for the child, the operator shall replace the missing meal or snack as if the child's parent or guardian had not opted out of the supplemental food program.

(d) The food required by special diets for medical, religious or cultural reasons, or parental preferences, may be provided by the operator or may be brought to the program by the parents. If the diet is prescribed by a health care professional, a statement signed by the health care professional shall be on file at the program and written instructions must be provided by the child's parent, health care professional or a licensed dietitian/nutritionist. If the diet is not prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on file at the program.

(e) Children's special diets or food allergies shall be posted in the food preparation area and in the child's eating area.

(f) Food that does not meet the nutritional requirements specified in Paragraph (a) of this Rule, such as cupcakes, cakes, and donuts shall only be offered for special occasions such as holidays and birthdays.

(g) The operator, additional caregivers, and substitute providers shall role model appropriate eating behaviors by consuming only food or beverages that meet the nutritional requirements specified in Paragraph (a) of this Rule in the presence of children in care.

(h) Meals and snacks shall be planned according to the number of hours a child is in care. For children ages 15 months and older a meal or snack must be provided at least every four hours. These Rules shall apply in all situations except during sleeping hours and nighttime care:

<b>Hours Child Is in Care</b>	<b>Age of Child</b>	<b>Snack and Meal Requirement</b>
At least 2 hours but less than 4 hours	Preschool-age children	1 snack, unless child is present during the time a meal is being served
Any hours in care	School-age children	1 snack, unless child is present during the time a meal is being served
At least 4 hours but less than 6 hours	All Children	1 meal equal to 1/3 of the child's daily food needs
At least 6 hours but less than 12 hours	All Children	2 meals and 1 snack OR 2 snacks and 1 meal equal to ½ of the child's daily food needs
More than 12 hours	All Children	2 snacks and 2 meals equal to 2/3 of the child's daily food needs
Second Shift (approximately 3:00 p.m. to 11:00 p.m.)	All Children	1 meal

(i) The parent or health care professional of each child under 15 months of age shall provide the operator an individual written feeding plan for the child. This plan shall be followed at the home. This plan shall include the child's name, be signed by the parent or health care professional, and be dated when received by the operator. Each infant's plan shall be modified in consultation with the child's parent or health care professional to reflect changes in the child's needs as he or she develops. The feeding plans for each infant shall include the type and amount of milk, formula and food, the frequency of feedings and be available for reference by the operator.

(j) Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers shall be provided that include seating and an electrical outlet, in a place other than a bathroom, that is shielded from view by staff and the public, which may be used by mothers while they are breastfeeding or expressing milk.

(k) Each infant shall be held for bottle feeding until able to hold his or her own bottle. Bottles shall not be propped. Each child shall be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed. The feeding chair or other seating apparatus shall be disassembled for cleaning purposes.

(l) Breast milk, formula, and other bottled beverages sent from home shall be fully prepared, dated, and labeled with individual child names. All beverages shall be returned to the child's parent or discarded at the end of each day.

(m) Frozen breast milk that is sent from home may be stored frozen for up to seven days. Frozen breast milk shall be labeled with the date received, date thawed for use, and individual child name. Once thawed, the breast milk shall be refrigerated for no more than 24 hours. Thawed breast milk shall not be refrozen. The thawed breast milk shall be returned to the child's parent or discarded at the end of each day.

(n) Any formula that is prepared by the operator shall be prepared according to the instructions on the formula package or label, or according to written instructions from the child's health care professional.

(o) Baby food, snack items, and meal items sent from home shall be dated and labeled with individual child names.

(p) Microwaves shall not be used to thaw or warm breast milk, baby food, formula, or other bottled beverages. Bottle warming equipment and power cords shall be inaccessible to children when

in use. Bottle warming equipment shall be emptied and cleaned daily.

(q) Infants shall not be served juice in a bottle without a prescription or written statement on file from a health care professional or licensed dietitian/nutritionist.

(r) Each infant shall be served only formula, breast milk, and bottles labeled with their individual name.

(s) Drinking water shall be freely available and offered to children on a frequent basis. Individual drinking utensils shall be provided by the parent or operator.

(t) When milk, milk products, or fruit juices are provided by the operator, only pasteurized products or products that have undergone an equivalent process to pasteurization shall be used.

(u) The operator shall serve only the following beverages:

- (1) breast milk, as specified in Paragraph (k) of this Rule;
- (2) formula;
- (3) water;
- (4) unflavored whole milk, for children ages 12-23 months;
- (5) unflavored skim or lowfat milk for children 24 months through five years;
- (6) unflavored skim milk, unflavored low-fat milk, or flavored skim milk for children six years and older; or
- (7) 100 percent fruit juice, limited to 6 ounces per day, for all ages.

*History Note: Authority G.S. 110-85; 110-91(2); 143B-168.3; Eff. December 1, 2012;*

*Temporary Amendment Eff. September 23, 2016;*

*Readopted Eff. October 1, 2017;*

*Amended Eff. February 1, 2021.*

#### **10A NCAC 09 .1707 BUILDING REQUIREMENTS**

The applicant shall ensure that the family child care home complies with the following requirements:

- (1) all children are kept on the ground level with an exit at grade;
- (2) all family child care homes must be free of lead poisoning hazards as defined in G.S. 130A-131.7(7);

- (3) all homes are equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other;
- (4) all homes are provided with at least one five pound 2-A: 10-B: C type extinguisher for every 2,500 square feet of floor area;
- (5) heating appliances shall be installed and maintained according to the NC Building Code;
- (6) all indoor areas used by children are heated when the temperature is below 65 degrees and ventilated when the temperature is above 85 degrees;
- (7) pipes or radiators that are hot enough to be capable of burning children and are accessible to the children are covered or insulated; and
- (8) children are cared for in space designated as the caregiving area on a floor plan provided by the operator to the Division as specified in 10A NCAC 09 .1709. Changes to the designated caregiving space shall be submitted to the Division 30 days prior to the new space being used by children.

*History Note:* Authority G.S. 110-85; 110-86(3); 110-91; 143B-168.3;

*Eff. October 1, 2017;*

*Amended Eff. February 1, 2021.*

#### **10A NCAC 09 .1714 EMERGENCY PREPAREDNESS AND RESPONSE**

(a) For purposes of this Rule, the Emergency Preparedness and Response in Child Care is a training developed by the North Carolina Child Care Health and Safety Resource Center for child care operators and providers on creating an Emergency Preparedness and Response Plan and practicing, responding to, and recovering from emergencies in child care facilities.

(b) Existing family child care home operators (operator or operators) shall complete the Emergency Preparedness and Response in Child Care training. Within one year of the effective date of a new license, the operator of a new family child care home shall have completed the Emergency Preparedness and Response in Child Care training. When the trained staff member leaves employment, the family child care home shall ensure that another staff member completes the required training within four months of the vacancy. Documentation of completion of the training shall be maintained in the operator's personnel file.

(c) Upon completion of the Emergency Preparedness and Response in Child Care training, the operator shall develop the Emergency Preparedness and Response Plan. The Emergency Preparedness and Response Plan means a written plan that addresses how a child care facility will respond to both natural and man-made disasters, such as fire, tornado, flood, power failures, chemical spills, bomb threats, earthquakes, blizzards, nuclear disaster, or a dangerous person in the vicinity, to ensure the safety and protection of the children and additional caregivers. This Plan shall be on a template provided by the Division available at <https://rmp.nc.gov/portal/#> completed within four

months of completion of the Emergency Preparedness and Response in Child Care training, and available for review.

(d) The Emergency Preparedness and Response Plan shall include the following:

- (1) written procedures for accounting for all in attendance, including:
  - (A) the location of the children, staff, volunteer and visitor attendance lists; and
  - (B) the name of the person(s) responsible for bringing the children, staff, volunteer and visitor attendance lists in the event of an emergency.
- (2) a description for how and when children shall be transported;
- (3) methods for communicating with parents and emergency personnel or law enforcement;
- (4) a description of how children's nutritional and health needs will be met;
- (5) the relocation and reunification process;
- (6) emergency telephone numbers;
- (7) evacuation diagrams showing how the operator, family members, children and any other individuals who may be present will evacuate during an emergency;
- (8) the date of the last revision of the plan;
- (9) specific considerations for non-mobile children and children with special needs; and
- (10) the location of the Ready to Go File. A Ready to Go File means a collection of information on children, additional caregivers and the facility, to utilize, if an evacuation occurs. The file shall include a copy of the Emergency Preparedness and Response Plan, contact information for individuals to pick-up children, each child's Application for Child Care, medication authorizations and instructions, any action plans for children with special health care needs, a list of any known food allergies of children and additional caregiver, additional caregiver contact information, Incident Report forms, an area map, and emergency telephone numbers.

(e) The operator shall review the Emergency Preparedness and Response Plan annually, or when information in the plan changes, to ensure all information is current.

(f) The operator shall review the Family Child Care Home's Emergency Preparedness and Response Plan with additional caregivers prior to the individual caring for children and on an annual basis.

(g) All substitute providers and volunteers who provide care to children shall be informed of the Emergency Preparedness and Response Plan and its location. Documentation of this notice shall be maintained in the individual personnel files.

*History Note:* Authority 110-85; 110-88; 110-91; 143B-168.3;

*Eff. October 1, 2017;*

*Amended Eff. February 1, 2021.*

**10A NCAC 09 .1718 REQUIREMENTS FOR DAILY OPERATIONS**

(a) The family child care home operator (operator or operators) shall provide the following on a daily basis for all children in care:

- (1) Developmentally appropriate equipment and materials for a variety of outdoor activities that allow for vigorous play, large and small muscle development, and social, emotional, and intellectual development. For purposes of this Rule "vigorous" means done with force and energy. Each child shall have the opportunity for a minimum of one hour of outdoor play each day that weather conditions permit. The operator shall provide space and time for vigorous indoor activities when children cannot play outdoors;
- (2) Individual sleep requirements for infants aged 12 months or younger shall be provided for as specified in 10A NCAC 09 .1724(a)(2). A supply of clean linens must be on hand so that linens can be changed whenever they become soiled or wet. Linens shall be changed weekly or whenever they become soiled or wet. An individual sleeping space such as a bed, crib, play pen, cot, mat, or sleeping bag with individual linens shall be provided for each pre-school age child in care for four hours or more, or for all children if overnight care is provided, to rest;
- (3) A safe sleep environment by ensuring that when a child is sleeping or napping, bedding or other objects shall not be placed in a manner that covers the child's face;
- (4) A separate area that can be supervised pursuant to 10A NCAC 09 .1720(a) for children who become ill to the extent that they can no longer participate in group activities. Parents shall be notified if their child becomes too sick to remain in care;
- (5) The opportunity each day for each child under the age of 12 months for supervised play while awake and alert while positioned on his or her stomach;
- (6) Developmentally appropriate activities as planned on a written schedule and activity plan. The schedule and activity plan may be combined as one document. Materials or equipment shall be available indoors and outdoors to support the activities listed on the written schedule and activity plan;
- (7) A written schedule that shall:
  - (A) Show blocks of time assigned to types of activities and include periods of time for both active play and quiet play or rest;
  - (B) Show times and activities that are developmentally appropriate for the ages of children in care;

- (C) Reflect daily opportunities for both free choice and guided activities;
  - (D) Include a minimum of one hour of outdoor play throughout the day, if weather conditions permit;
  - (E) Include a daily gross motor activity that may occur indoors or outdoors; and
  - (F) For children under two years old, interspersed among the daily events shall be individualized caregiving routines such as eating, napping, and toileting;
- (8) A written activity plan that shall:
- (A) Include activities intended to stimulate the following developmental domains, in accordance with North Carolina Foundations for Early Learning and Development, available on the Division's website at [https://www.ncchildcare.ncdhhs.gov/pdf\\_forms/nc\\_foundations.pdf](https://www.ncchildcare.ncdhhs.gov/pdf_forms/nc_foundations.pdf):
    - (i) emotional and social development;
    - (ii) health and physical development;
    - (iii) approaches to play and learning;
    - (iv) language development and communication; and
    - (iv) cognitive development.
  - (B) Identify activities that allow children to choose to participate with the whole group, part of the group, or independent of the group;
  - (C) Reflect that children have at least four different activities daily, at least one of which is outdoors, if weather conditions permit, as specified in G.S. 110-91(12) as follows:
    - (i) art and other creative play;
    - (ii) children's books;
    - (iii) blocks and block building;
    - (iv) manipulatives; and
    - (v) family living and dramatic play.
  - (D) Provide materials and opportunities at least weekly, indoors or outdoors, for the following:
    - (i) music and rhythm;
    - (ii) science and nature; and
    - (iii) sand and water play.
- (9) A clean and open area that allows freedom of movement shall be available, both indoors and outdoors; and
- (10) Operators who provide care to school-age children shall provide a balance of activities appropriate to the age, needs and interests of the school-age children.

(b) When screen time is provided on any electronic media device with a visual display, it shall be:

- (1) offered to stimulate a developmental domain in accordance with the North Carolina Foundations for Early Learning and Development as referenced in this Section;
- (2) limited to a maximum of 30 minutes per day and no more than a total of two and a half hours per week per child; and
- (3) documented on a cumulative log or activity plan, and shall be available for review by the Division.

(c) Screen time is prohibited for children under the age of three years. The operator shall offer alternate activities for children under the age of three years.

(d) When needed to complete homework assignments, screen time for school-age children may exceed 30 minutes.

*History Note: Authority G.S. 110-85; 110-88; 110-91(12); 143B-168.3;*

*Eff. July 1, 1998;*

*Amended Eff. May 1, 2016; December 1, 2012; July 1, 2010; March 1, 2006; May 1, 2004;*

*Readopted October 1, 2017;*

*Amended Eff. February 1, 2021; September 1, 2019.*

#### **10A NCAC 09 .1721 REQUIREMENTS FOR RECORDS**

(a) The family child care home operator shall maintain the following health records for each enrolled child, including his or her own child(ren) who are not school-age:

- (1) a copy of the child's health assessment as required by G.S. 110-91(1);
- (2) a copy of the child's immunization record;
- (3) an application for enrollment that includes information set forth in this Subparagraph provided by the Division that is completed and signed by a child's parent, as defined in 10A NCAC 09 .0102. A copy of the form may be found on the Division's website at [https://ncchildcare.ncdhhs.gov/pdf\\_forms/DC-D-0377.pdf](https://ncchildcare.ncdhhs.gov/pdf_forms/DC-D-0377.pdf). The completed form shall be on file the first day the child attends. An operator may use another form other than the one provided by the Division, as long as the form includes the following information:
  - (A) the child's full name and the name the child is to be called;
  - (B) the child's date of birth;
  - (C) any allergies and the symptoms and type of response required for allergic reactions;
  - (D) any health care needs or concerns, symptoms of and the type of response required for these health care needs or concerns;
  - (E) fears or behavior characteristics that the child has;

- (F) the names of individuals to whom the operator may release the child as authorized by the person who signs the application;
- (G) the names and phone numbers of persons to be contacted in an emergency situation;
- (H) the name and phone number of the child's physician; and
- (I) authorization for the operator to seek emergency medical care in the parent's absence.

(4) For any child with health care needs such as allergies, asthma, or other chronic conditions that require specialized health services, a medical action plan shall be attached to the application. The medical action plan shall be updated on an annual basis and when changes to the plan are made by the child's parent or health care professional. Sample medical action plans may be found on the Division's website at [https://ncchildcare.ncdhhs.gov/providers/pv\\_provideforms.asp](https://ncchildcare.ncdhhs.gov/providers/pv_provideforms.asp). The medical action plan shall be completed by the child's parent or a health care professional and may include the following:

- (A) a list of the child's diagnosis or diagnoses including dietary, environmental, and activity considerations that are applicable;
- (B) contact information for the health care professional(s);
- (C) medications to be administered on a scheduled basis; and
- (D) medications to be administered on an emergency basis with symptoms, and instructions.

(5) when medication is administered, authorization for the operator to administer the specific medication according to the parent's or physician's instructions.

(b) The family child care home operator and staff shall release a child only to an individual listed on the application.

(c) The information contained in Parts (a)(3)(A) through (a)(3)(J) and Subparagraph (a)(4) of this Rule, shall be accessible to caregiving staff during the time the child is in care at the family child care home.

(d) The family child care home operator and staff shall use the information provided on the application to ensure that individual child's needs are met during the time the child is in care.

(e) The family child care home operator shall complete and maintain other records that include:

- (1) documentation of the operator's Emergency Preparedness and Response Plan on a template provided by the Division of Emergency Management at <http://rmp.nc.gov/portal/#>;
- (2) documentation that monthly fire drills are practiced. The documentation shall include the

- date each drill is held, the time of day, the length of time taken to evacuate the home, and the operator's signature;
- (3) incident reports that are completed each time a child is injured or when a child receives medical treatment by a health care professional, community clinic, or local health department as a result of an incident occurring while the child is in care. The incident report shall include:
- (A) facility identifying information;
  - (B) the child's name;
  - (C) date and time of the incident;
  - (D) witness to the incident;
  - (E) time the parent is notified of the incident and by whom;
  - (F) piece of equipment involved, if applicable;
  - (G) cause of injury, if applicable;
  - (H) description of injury or incident;
  - (I) body part injured, if applicable;
  - (J) where the child received medical treatment, if applicable;
  - (K) description of how and where the incident occurred and First Aid received; and
  - (L) steps taken to prevent reoccurrence.
- This report shall be signed by the person completing it and by the parent, a copy given to the parent, and the report maintained in the child's file. When medical treatment is required, a copy of the incident report shall be mailed to a representative of the Division within seven calendar days after the incident. A copy of the form can be found on the Division's website at [https://ncchildcare.ncdhhs.gov/pdf\\_forms/DC\\_DEE-0058.pdf](https://ncchildcare.ncdhhs.gov/pdf_forms/DC_DEE-0058.pdf);
- (4) an incident log that is filled out any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for review by the Division. This log shall be completed on a form supplied by the Division. A copy of the form can be found on the Division's website at [https://ncchildcare.ncdhhs.gov/pdf\\_forms/incident\\_log\\_i.pdf](https://ncchildcare.ncdhhs.gov/pdf_forms/incident_log_i.pdf);
- (5) documentation that a monthly check for hazards on the outdoor play area is completed. This form shall be supplied by the Division and shall be maintained in the family child care home for review by the Division. The form shall include the following information:
- (A) Name of facility, time and date the form was completed;
  - (B) Signature of individual completing form;
  - (C) General inspection items;
  - (D) Surfacing;
  - (E) General hazard items; and
  - (F) Deterioration of equipment.

- For items on the checklist the operator has to check if pass or fail, if fail identify the problem and solution. A copy of the form can be found of the Division's website at [https://ncchildcare.ncdhhs.gov/pdf\\_forms/fcch\\_outdoor\\_inspection\\_checklist.pdf](https://ncchildcare.ncdhhs.gov/pdf_forms/fcch_outdoor_inspection_checklist.pdf);
- (6) daily attendance records for all children in care, including the operator's own preschool children. The attendance record shall indicate the date and time of arrival and departure for each child and shall be maintained as children arrive and depart; and
- (7) documentation of lockdown or shelter-in-place drills giving the date each drill is held, the time of day, the length of time taken to get into designated locations and the signature of the person who conducted the drill.
- (f) Written records shall be maintained as follows in a family child care home:
- (1) All children's records as required in this Section, except medication permission slips as required in Rule .1720(b)(13) of this Section, shall be kept on file as long as the child is enrolled and for one year from the date the child is no longer enrolled.
  - (2) Records regarding administration of medications required by Rule .1720(b)(13) of this Section shall be maintained during the time period the medication is being administered and for six months after the medication is administered.
  - (3) Additional caregiver and substitute provider records as required in this Section shall be maintained on file for as long as the individual is employed and for one year from the employee's last date of employment.
  - (4) All program records, including documentation of operator qualifications, as required in this Section shall be maintained on file for as long as the license remains valid except as follows:
    - (A) A minimum of 30 days from the revision or replacement date:

Record	Rule
Daily Schedule	.1718(a)(6)
Activity Plan	.1718(a)(6)
Infant Feeding Plan	.1706(i)
Allergy Posting	.1706(e)
SIDS Sleep Chart/Visual Check	.1724(a)(8)

- (B) A minimum of one year from the revision or replacement date:

Record	Rule
Attendance	.1721(e)(6)
Emergency Numbers	.1719(a)(12)
Safe Sleep Policy	.1724(c) and (d)
Written Plan of Care	.1712

Emergency Medical Care Plan	.1713
Emergency Preparedness and Response Plan	.1721(e)(1)
Off-Premises and routine Transportation Permission	.1723(5), .1723(15)(a) and .1723(b)
List and Identifying Information for Children being Transported	.1723(13) and .1723(15)(c)
Fire Drill Log	.1721(e)(2)
Lockdown or Shelter-in-Place Drill Log	.1721(e)(7)
Incident Log	.1721(e)(4)
Outdoor Play Area Inspection	.1721(e)(5)
Pet Vaccinations	.1719(b)(1)
Medication Error Log	.1720(b)(14)

- (5) Well-water analysis, pool inspection and inspections for local ordinances as referenced in Rules .1702(b)(7), .1730(i), and .1725(a)(1), of this Section and G.S. 110-91 shall remain on file at the family child care home for as long as the license remains valid.
- (6) Records may be maintained in a paper format or an electronic format, provided that all required signatures are preserved in a paper format, PDF, or other graphic format.
- (7) All records required in this Chapter shall be available at the family child care home for review by the Division during the hours of operation listed on the child care license.

*History Note:* Authority G.S. 110-88; 110-91(1),(9);  
*Eff.* July 1, 1998;  
*Amended Eff.* July 1, 2015; July 1, 2010; July 1, 2008; April 1, 2003; April 1, 2001;  
*Temporary Amendment Eff.* September 23, 2016;  
*Readopted Eff.* October 1, 2017;  
*Amended Eff.* February 1, 2021; September 1, 2019.

#### **10A NCAC 09 .1724 SAFE SLEEP PRACTICES**

(a) Each operator licensed to care for infants aged 12 months or younger shall develop, adopt, and comply with a written safe sleep policy that:

- (1) specifies that the operator shall place infants aged 12 months or younger on their backs for sleeping, unless:
  - (A) for an infant aged six months or less, the operator receives a written waiver of this requirement from a health care professional; or
  - (B) for an infant older than six months, the operator receives a written waiver of

- (2) specifies that infants aged 12 months or younger shall be placed in a crib, bassinet or play pen, mat, or cot with a firm padded surface when sleeping;
- (3) specifies no pillows, wedges or other positioners, pillow-like toys, blankets, toys, bumper pads, quilts, sheepskins, loose bedding, towels and washcloths, or other objects may be placed in a crib with a sleeping infant aged 12 months or younger;
- (4) specifies that children shall not be swaddled;
- (5) specifies that nothing shall be placed over the head or face of an infant aged 12 months or younger when the infant is laid down to sleep;
- (6) specifies that the temperature in the room where infants aged 12 months or younger are sleeping does not exceed 75°F;
- (7) specifies the operator shall visually check sleeping infants aged 12 months or younger at least every 15 minutes;
- (8) specifies how the operator shall document compliance with visually checking on sleeping infants aged 12 months or younger;
- (9) specifies that pacifiers that attach to infant clothing shall not be used with sleeping infants;
- (10) specifies that infants aged 12 months or younger sleep alone in a crib, bassinet, play pen, mat, or cot;
- (11) specifies that infants aged 12 months or younger shall be prohibited from sleeping in sitting devices, including car safety seats, strollers, swings, and infant carriers. Infants that fall asleep in sitting devices shall be moved to a crib, bassinet, play pen, mat, or cot; and
- (12) specifies any other steps the operator shall take to provide a safe sleep environment for infants aged 12 months or younger.

(b) The operator shall post a copy of the safe sleep policy and poster about safe sleep practices in a prominent place in the infant sleeping room or area where parents and caregivers are able to view daily.

(c) A copy of the operator's safe sleep policy shall be given and explained to the parents of an infant aged 12 months or younger on or before the first day the infant attends the home. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain:

- (1) the infant's name;
- (2) the date the infant first attended the home;
- (3) the date the operator's safe sleep policy was given and explained to the parent; and
- (4) the date the parent signed the acknowledgement.

The operator shall retain the acknowledgement in the child's record as long as the child is enrolled at the home.

(d) If an operator amends a home's safe sleep policy, the operator shall give written notice of the amendment to the parents of all

enrolled infants aged 12 months or younger at least 14 days before the amended policy is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's record as long as the child is enrolled at the home.

(e) The operator shall place a child aged 12 months or younger on the child's back for sleeping, unless for a child aged 6 months or younger, the operator obtains a written waiver from a health care professional; or for a child older than 6 months, the operator obtains a written waiver from a health care professional or parent.

Waivers shall include the following:

- (1) the infant's name and birth date;
- (2) be signed and dated by the infant's health care professional or parent;
- (3) if a wedge is needed, specify why it is needed and how it should be used; and
- (4) the infant's authorized sleep positions.

The operator shall retain the waiver in the child's record as long as the child is enrolled at the home.

(f) Documents that verify staff member's compliance with visual checks on infants shall be maintained for a minimum of one month.

(g) For each infant with a waiver on file at the home as specified in Paragraph (e) of this Rule, a notice shall be posted for quick reference near the infant's crib, bassinet, play pen, or mat that shall include:

- (1) the infant's name;
- (2) the infant's authorized sleep position; and
- (3) the location of the signed waiver.

No confidential medical information, including an infant's medical diagnosis, shall be shown on the notice.

*History Note: Authority G.S. 110-85; 110-91(15); 143B-168.3;*

*Eff. May 1, 2004;*

*Amended Eff. July 1, 2010;*

*Readopted Eff. October 1, 2017;*

*Amended Eff. February 1, 2021.*

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

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

- (1) be 21 years old;
- (2) have a high school diploma or GED;
- (3) have completed a First Aid and cardiopulmonary resuscitation (CPR) course within 12 months prior to caring for children;
- (4) have completed a health questionnaire;
- (5) have proof of negative results of a tuberculosis test or screening completed within 12 months prior to the first day of providing care;
- (6) have submitted criminal background check forms as required in Rule .2703 of this Chapter;
- (7) have documentation of annual on-going training as described in Rule .1703(d) of this Section after the first year of employment;

- (8) have completed ITS-SIDS training, if licensed to care for infants;
- (9) have completed Recognizing and Responding to Suspicions of Child Maltreatment training; and
- (10) have documentation that the operator has reviewed the requirements found in this Chapter, including the Emergency Preparedness and Response Plan, and in G.S. Chapter 110, Article 7.

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

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

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

- (1) recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;
- (2) review of the home's operational policies, including the written plan of care, safe sleep policy, the transportation policy, identification of building and premises safety issues, the emergency medical care plan, and the Emergency Preparedness and Response Plan;
- (3) adequate supervision of children in accordance with Rule .1711(a) of this Section;
- (4) information regarding prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (5) prevention and control of infectious diseases, including immunization;
- (6) firsthand observation of the home's daily operations;
- (7) instruction regarding assigned duties;
- (8) instruction in the maintenance of a safe and healthy environment;
- (9) instruction in the administration of medication to children in accordance with Rule .1720(b) of this Section;
- (10) review of the home's purposes and goals;
- (11) review of G.S. 110, Article 7 and 10A NCAC 09;
- (12) review of Section .2800 of this Chapter if the operator has a two- through five- star license at the time of employment;
- (13) an explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource;



- (14) an explanation of the individual's obligation to cooperate with representatives of State and local government agencies during visits and investigations;
- (15) prevention of and response to emergencies due to food and allergic reactions; and
- (16) review of the home's handling and storage of hazardous materials and the appropriate disposal of biocontaminants.

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

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

*History Note: Authority G.S. 110-85; 110-88; 110-91; 143B-168.3;*

*Eff. October 1, 2017;*

*Amended Eff. February 1, 2021; March 1, 2019.*

#### **10A NCAC 09 .1730 ACTIVITIES INVOLVING WATER**

(a) The requirements in this Rule apply to "aquatic activities," which are defined as activities that take place in a body of water such as swimming, swimming instruction, wading, and visits to water parks. Aquatic activities do not include water play activities such as water table play, slip and slide activities, or playing in sprinklers.

(b) Aquatic activities involving the following are prohibited:

- (1) hot tubs;
- (2) spas;
- (3) saunas or steam rooms;
- (4) portable wading pools; and
- (5) natural bodies of water and other unfiltered, nondisinfected containments of water.

(c) When children enrolled in a family child care home participate in aquatic activities, there shall be at least one person who has a life guard training certificate issued by the Red Cross or other training determined by the Division to be equivalent to the Red Cross training, appropriate for both the type of body of water and type of aquatic activity. Verification of the operator's completion of this course from an approved training organization shall be maintained in their personnel file in the family child care home. The Division shall post a list of approved training organizations on its website at [http://ncchildcare.ncdhhs.gov/providers/pv\\_sn2\\_ov\\_pd.asp](http://ncchildcare.ncdhhs.gov/providers/pv_sn2_ov_pd.asp).

(d) The family child care home operator shall be responsible for adequately supervising the aquatic activity for the duration of the activity. For purposes of this Rule, "Adequate supervision" means that the operator shall be able to hear, see, and respond to the children whether in or out of the water.

(e) Prior to children participating in aquatic activities, the operator shall develop policies that address the following:

- (1) aquatic safety hazards;

- (2) pool and aquatic activity area supervision, including restroom or changing room use;
- (3) how discipline will be handled during aquatic activities;
- (4) the operator's off premise and transportation policies; and
- (5) that children shall be directed to exit the water during an emergency.

The policies shall be reviewed with additional caregivers and substitute providers prior to caring for children participating in aquatic activities.

(f) Family child care home operators shall obtain written permission from parents for participation in aquatic activities. The written permission shall include a statement that parents are aware of the operator's aquatic policies specified in Paragraph (f) of this Rule. The operator shall maintain copies of written parental permission in each child's file.

(g) Any outdoor swimming pool located on the family child care home premises shall be enclosed by a fence that is at least four feet high, separated from the remaining outdoor play area by that fence, and locked and inaccessible to children when not in use.

(h) Swimming pool safety rules shall be posted and visible to children and staff for any swimming pool located on the child care facility premises. These rules shall state:

- (1) the location of a First Aid kit;
- (2) that only water toys are permitted;
- (3) that children are not allowed to run or push one another;
- (4) that swimming is allowed only when the operator is present; and
- (5) that glass objects are not allowed.

(i) All swimming pools used by children in care shall meet the "Rules Governing Public Swimming Pools" in accordance with 15A NCAC 18A .2500 which are incorporated by reference, including subsequent amendments. A copy of these Rules can be found at <http://ehs.ncpublichealth.com/docs/rules/294306-9-2500.pdf> and is available at no charge.

(j) Educational activities, such as observing tadpoles, exploring mud, or learning about rocks and vegetation shall be permitted.

(k) Boating, rafting, and canoeing activities are permitted. Prior to participating in recreational activities conducted on the water, children shall wear an age or size appropriate personal flotation device approved by the United States Coast Guard. This personal flotation device shall be worn for the duration of the activity.

*History Note: Authority G.S. 110-88; 110-91(1),(3),(6); 143B-168.3;*

*Temporary Adoption Eff. September 23, 2016;*

*Eff. October 1, 2017;*

*Amended Eff. February 1, 2021.*

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

A provisional child care facility license or provisional notice of compliance may be issued to an operator for any period of time not to exceed 12 months in accordance with the factors listed in 10A NCAC 09 .2201(b) for, among other things, the following reasons:

- (1) a substantiation of one or more violations as a result of a complaint that do not meet the criteria for a maltreatment finding pursuant to G.S. 110-105.3(b)(3) but for which more than three months is needed to monitor for corrective action implementation;
- (2) to allow a time period for correcting a violation of the building, fire, or sanitation requirements;
- (3) to allow a time period for remediation of an identified lead poisoning hazard as defined in G.S. 130A-131.7(7), regardless of whether a provisional sanitation classification has been issued;
- (4) to allow a time period for correction of an administratively dissolved corporation status from the North Carolina Secretary of State;
- (5) when the compliance history of the facility drops below the minimum requirement set forth in G.S. 110-90;
- (6) change of location of a child care facility without proper notification to the Division as specified in Rules 10A NCAC 09 .0204(b), .0403(a), and .1702(d); or
- (7) pattern of noncompliance.

*History Note:* Authority G.S. 110-88(6); 110-90; 110-99; 143B-168.3;  
*Eff. February 1, 2019;*  
*Amended Eff. February 1, 2021.*

#### **10A NCAC 09 .2206 SUSPENSION**

A suspension of a license or suspension of a notice of compliance may be issued to an operator in accordance with the factors listed in 10A NCAC 09 .2201(b) for a time period not to exceed one year for the following reasons:

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

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

*History Note:* Authority G.S. 110-88; 110-90; 110-102.2; 143B-168.3; 150B-3;  
*Eff. July 1, 1988;*

*Amended Eff. April 1, 2001; November 1989;*  
*Readopted Eff. February 1, 2019 (Transferred from 10A NCAC 09 .2205);*  
*Amended Eff. February 1, 2021.*

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

Revocation of a child care facility license or an order to cease operation may be issued to an operator in accordance with the factors listed in 10A NCAC 09 .2201(b) for the following reasons:

- (1) child maltreatment has occurred in a child care facility and harm occurred as set forth in Rule .2201(c)(2) of this Section;
- (2) more than two determinations of child maltreatment have occurred at a child care facility within three years;
- (3) violation of any section of G.S. 110, Article 7 or the Rules of this Chapter or 10A NCAC 10 has been willful or continual as evidenced by:
  - (a) a pattern of noncompliance, and the operator has not made efforts to correct repeated violations or is unable to comply; or
  - (b) the operator has failed to comply with the terms of a corrective action plan issued with a special provisional or probationary license or notice of compliance;
- (4) violation of any section of G.S. 110, Article 7 or the Rules of this Chapter or 10A NCAC 10 is hazardous to health or safety of children;
- (5) the operator fails to comply with an implemented protection plan as set forth in G.S. 110-105.3(e);
- (6) the operator falsifies information in violation of G.S. 110-91(14);
- (7) the compliance history of the facility drops below the minimum requirement set forth in G.S. 110-90 and the conditions at the facility are hazardous to the health and safety of the children or staff;
- (8) receipt of a disapproved sanitation classification that is not corrected with a superior or approved sanitation classification within 12 months of issuance of a Suspension as set forth in Rule .2206 of this Section; or
- (9) the operator of the child care facility is a corporate entity that has been placed under revenue suspension from the North Carolina Secretary of State that has not been corrected within one year of issuance of a Suspension as set forth in Rule .2206 of this Section.

*History Note:* Authority G.S. 110-88; 110-90; 110-102.2; 143B-168.3; 150B-3;  
*Eff. July 1, 1988;*  
*Amended Eff. April 1, 2001; August 1, 1990; November 1, 1989;*

*Readopted Eff. February 1, 2019 (Transferred from 10A NCAC 09 .2206); Amended Eff. February 1, 2021.*

**10A NCAC 09 .2318 CHILD CARE CENTER RECORD RETENTION**

All records required in this Chapter shall be maintained for review by representatives of the Division as specified in G.S. 110-91(9), Rule .0304(g) of this Chapter, and as follows:

- (1) The records shall be available at the center during the hours of operation listed on the child care license.
- (2) Records may be maintained in a paper format or an electronic format, provided that all required signatures are preserved in a paper format, PDF or other used graphic format.
- (3) Records regarding administration of medications required by Rules .0302(d)(7) and .0803(13) of this Chapter shall be maintained during the time period the medication is being administered and for six months after the medication is administered.
- (4) All building inspections as referenced in G.S. 110-91, and in Rule .0302 of this Chapter shall remain on file at the center for as long as the license remains valid.
- (5) All fire, sanitation, and pool, inspections as referenced in G.S. 110-91, and Rules .0302 and .1403 of this Chapter shall remain on file at the center for a minimum of three years.
- (6) Each child care center shall retain records for children as follows:

Type of Child Record	In each child's file, for as long as the child is enrolled	For 1 year after the child is no longer enrolled
Child Medical Report Rule .0302(d)(2)	X	X
Immunization Record Rule .0302(d)(2)	X	X
Child Application Rules .0302(d)(2) and .0801(a)	X	X
Child Emergency Medical Care Information Rules .0302(d)(2), .0801(a)(1) and .0802(c) through (d)	X	X
Safe Sleep Policy Rule .0606(c)	X	X
Notice of Amendment to Safe Sleep Policy Rule .0606(d)	X	X
Safe Sleep Waiver Rule .0606(e)	X	X
Child Medical Action Plan Rule .0801(b)	X	X
Incident Report Rule .0802(e)	X	X
Parental Permission for Administration of Medication Rules .0803(3), (4), (6) through (9) and (11)	X	X
Supplemental Food "Opt Out" Statement Rule .0901(d)	X	X
Parental Permission for Transportation and Off-Premises Activities Rules .1003(i) and (j), .1005(b)(3) and (4)	X	X
Parental Permission for Aquatic Activities Rule .1403(i)	X	X
Discipline Policies Rule .1804(a)	X	X

**APPROVED RULES**

<b>Type of Child Record</b>	<b>In each child's file, for as long as the child is enrolled</b>	<b>For 1 year after the child is no longer enrolled</b>
Notice of Change to Discipline Policies Rule .1804(b)	X	X
Shaken Baby Syndrome and Abusive Head Trauma Policy Rule .0608	X	X

(7) Each child care center shall retain records for personnel as follows:

<b>Type of Personnel Record</b>	<b>For at least 1 year after employee is no longer employed</b>	<b>For 1 Year After Record Created</b>	<b>Until the record is superseded by a new statement</b>	<b>In each personnel file or designated emergency preparedness file</b>
Application for Employment Rule .0302(d)(1)(A)	X			
Staff Medical Report Rules .0302(d)(1)(C) and .0701(a)	X			
Health Questionnaire Rules .0302(d)(1)(C) and .0701(a)	X			
Proof of Tuberculosis Test or Screening Rules .0302(d)(1)(C) and .0701(a)	X			
Staff Emergency Medical Care Information Rules .0302(d)(1)(C) and .0701(a)	X			
Evaluation of Emotional and Physical Fitness (as applicable) Rule .0701(b)	X			
Verification of Age Rules .0302(d)(1)(A), .0703, and .0704	X			
Criminal Record Check Information Rules .0302(d)(1)(E);	X			
Education and Equivalency Forms Rules .0302(d)(1)(B),	X			

<b>Type of Personnel Record</b>	<b>For at least 1 year after employee is no longer employed</b>	<b>For 1 Year After Record Created</b>	<b>Until the record is superseded by a new statement</b>	<b>In each personnel file or designated emergency preparedness file</b>
.0703, .0704 and .2510				
Record of On-going Training Rules .0302(d)(1)(D), and .1103(a)	X			
Documentation of Staff Orientation Rules .0302(d)(1)(D), and .1101(a)	X			
Documentation of Emergency Preparedness and Response in Child Care Training Rule .0607(b)				X
Documentation of Review of Emergency Preparedness and Response Plan Rules .0607(e), (f) and (g)				X
Documentation of First Aid training Rule .1102(c)	X			
Documentation of CPR training Rule .1102(d)	X			
Documentation of Playground Safety Training if applicable Rule .1102(e)	X			
Documentation of ITS-SIDS Safe Sleep Training if applicable Rule .1102(f)	X			
Documentation of Aquatic Activities Policy Receipt Rule .1403(h)		X	X	
Documentation of BSAC training if applicable Rule .2510	X			

(8) Each child care center shall retain records for the program as follows:

**APPROVED RULES**

Type of Program Record	As long as the license remains valid	A minimum of 30 days after record revised or replaced	A minimum of 1 year after record created, revised or replaced
Attendance Rule .0302(d)(3)			X
Daily record of arrival and departure times for children Rule .0302(d)(4)			X
Fire Drill Log .0604(t) Rule .0302(d)(5)			X
Playground Inspection Rules .0302(d)(6) and .0605(q)			X
Lockdown or Shelter-In-Place Drill Record Rules .0302(d)(8) and .0604(u)			X
Daily Schedule Rule .0508(a)			X
Activity Plan Rule .0508(a)		X	
Manufacturer's Instructions for equipment and furnishings Rules .0601(b) and .0605(b)	X		
Fire Evacuation Procedures Rule .0604(r)	X		
Written plan for evacuation in centers that do not meet institutional building code Rule .0604(r)			X
Safe Pick-Up and Delivery Procedures Rule .1003			X
Safe Sleep Policy Rule .0606(a)	X		
SIDS Sleep Chart/Visual Check Rule .0606(a)(7)		X	
Emergency Preparedness and Response Plan Rules .0607(c) and (d)			X
Shaken Baby Syndrome and Abusive Head Trauma Policy Rule .0608	X		
Emergency Medical Care Plan Rule .0802(a)			X
Incident Log Rule .0802(f)			X
Menu Rule .0901(b)		X	
Allergy Postings Rule .0901(g)		X	
Infant Feeding Plan Rule .0902(a)		X	
Identifying Information for Children being Transported Rule .1003(d)			X
List of children being transported Rules .1003(l) and .1005(b)(6)			X
Schedule of Off-Premises Activities			X

Type of Program Record	As long as the license remains valid	A minimum of 30 days after record revised or replaced	A minimum of 1 year after record created, revised or replaced
Rule .1005(b)(5)			
Aquatic Activity Policies Rule .1403(g)	X		
Documentation of emergency situation that necessitated a lack of direct supervision Rule .1801(a)	X		
Discipline Practices Rules .1803 and .1804	X		

*History Note: Authority G.S. 110-85; 110-91(9); 143B-168.3; Eff. January 1, 1986; Amended Eff. July 1, 2015; July 1, 2010; July 1, 2008; Readopted Eff. October 1, 2017; Amended Eff. February 1, 2021; September 1, 2019.*

#### **10A NCAC 09 .2408 STAFF QUALIFICATIONS**

(a) All staff working with the mildly sick children shall complete all requirements in this Chapter pertaining to preservice training in 10A NCAC 09 .0704, .0710 and .0711, orientation in 10A NCAC 09 .1101, health and safety training requirements in 10A NCAC 09 .1102, on-going training in 10A NCAC 09 .1103, and staff records in 10A NCAC 09 .0701. In addition, the requirements for staff who care for children with Level One symptoms as described in Rule .2404, Paragraphs (a)(1)(A) and (B) of this Section shall be as follows:

- (1) Each group of children shall have a lead teacher present who has the North Carolina Early Childhood Credential or its equivalent prior to assuming care giving responsibilities.
- (2) In addition to staff orientation requirements in 10A NCAC 09 .1101 of this Chapter prior to assuming care giving duties all caregivers shall complete 10 hours of training on the following:
  - (A) storage and administration of medication;
  - (B) infection control procedures;
  - (C) aspiration of nasal secretions;
  - (D) positioning for sleeping and eating;
  - (E) temperature and respiratory rate taking;
  - (F) documentation of signs, symptoms, physical appearance, intake and output, and communication with family and physicians;
  - (G) recognizing when to stop, increase, or decrease oral intake of fluids;
  - (H) recognizing signs and symptoms associated with the increased severity of illness including behavioral changes, changes in bowel movements, increased sluggishness, etc.;

- (I) developing individualized plans of care;
- (J) special dietary requirements and maintaining hydration; and
- (K) emergency procedures, including notification of a parent, should a child's condition worsen.

- (3) Any caregiver caring for a child whose illness requires special knowledge, skills, or equipment shall have training and equipment prior to caring for the child.
- (4) Completion of the training required by Subparagraph (a)(2) of this Rule shall count toward meeting one year's annual on-going training requirements in 10A NCAC 09 .1103.
- (5) When a center cares for mildly sick children as a component of a child care center, the administrator shall meet the education requirements for administrators as required by G.S. 110-91(8).

(b) In addition to the staffing requirements listed in Subparagraphs (a)(1) through (a)(4) of this Rule, if children with Level Two symptoms as described in Parts (a)(2)(A) through (a)(2)(E) of Rule .2404 of this Section are in care, the following number of medical staff shall be on site based upon the total number of children in care:

<u>No. of Children</u>	<u>Type of Medical Staff</u>
1 to 10	an RN, or a LPN with a health care professional in the immediate vicinity
10 to 20	an RN
20 to 40	an RN and an additional LPN

Each medical staff shall have one year of full-time pediatric nursing experience, and may count in staff/child ratio. Medical staff may also act as lead teachers if they have the North Carolina Early Childhood Credential or equivalent.

*History Note: Authority G.S. 110-88(11); 143B-168.3; Eff. April 1, 2003; Readopted Eff. October 1, 2017; Amended Eff. February 1, 2021; September 1, 2019.*

**10A NCAC 09 .2410 CHILDREN'S ACTIVITIES**

(a) Daily activities shall be provided in accordance with Section .0500 of these Rules and in accordance with each child's individualized plan of care. Activity areas shall not be required, but developmentally appropriate equipment and materials must be available daily for mildly sick children in care.

(b) Eating, toileting, sleeping, resting, and playing shall be individually determined and flexible to allow each child to decide when and whether to participate in available activities, and to nap or rest at any time.

(c) Daily outdoor time shall be available for children with Level One symptoms, as set forth in Rule .0508(c) of this Chapter, who are present more than three consecutive days unless deemed inappropriate by the child's attending health care professional.

*History Note: Authority G.S. 110-88(11); 143B-168.3; Eff. April 1, 2003; Readopted Eff. October 1, 2017; Amended Eff. February 1, 2021.*

**10A NCAC 09 .2509 ACTIVITIES: OFF-PREMISES**

(a) The requirements of this Rule and Section .1000 of this Chapter shall apply when activities for school-age children are conducted outdoors or off the premises for 75 percent of each day.

(b) The facility shall develop a plan of activities which is posted in a place in the home base or given to the parents. The plan shall include the location, purpose, time and date, person in charge, and telephone number or method for contacting the person in charge.

(c) Activities shall be planned to accommodate a variety of individual interests and shall provide opportunities for choice.

(d) Written permission from parents shall be obtained before transporting children on off-premises activities.

(e) Blanket permissions from parents for off-premises activities shall be acceptable only when a plan of activities to be conducted off the premises is posted in a place for review by parents and staff in advance on a weekly basis.

*History Note: Authority G.S. 110-91(6),(12); 143B-168.3; Eff. July 1, 1988; Amended Eff. September 1, 1990; Readopted Eff. October 1, 2017; Amended Eff. February 1, 2021.*

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

(a) In addition to the requirements in Rules .0302 and .1702 of this Chapter, a child care provider shall submit the following to the Division prior to the issuance of a license or prior to beginning employment:

- (1) a signed and completed Authority for Release of Information form; and
- (2) fingerprint impressions submitted on the forms required by the Division and State Bureau of Investigation;
- (3) if a child care provider is an out-of-state resident, he or she shall also submit a certified local history from the Clerk of Superior Court in his or her county of residence.

All required forms can be found on the Division's website at [http://ncchildcare.dhhs.state.nc.us/general/dhhscre\\_childcare.asp](http://ncchildcare.dhhs.state.nc.us/general/dhhscre_childcare.asp)

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

- (1) the length of time since conviction;
- (2) whether the child care provider is currently on probation;
- (3) the nature of the offense;
- (4) the circumstances surrounding the commission of the offense or offenses;
- (5) the evidence of rehabilitation;
- (6) the number and type of prior offenses; and
- (7) the age of the child care provider at the time of occurrence.

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

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

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

(f) Provisional child care providers may be employed at a child care facility or reside in a family child care home, nonlicensed home, or child care center in a residence and shall be counted in staff/child ratio. Provisional child care providers shall be supervised at all times by an individual who received a qualifying result on a criminal background check within the past three years and may not be left alone with children. Owners found to be in violation of this Paragraph may be issued an administrative action up to and including revocation of their child care license or notice of compliance in accordance with Section .2200 of this Chapter.

(g) Within five days of applying for provisional status through the Division's online portal, the applicant shall complete and submit any documents specific to their former state(s) of residence that are necessary to complete the out-of-state portion of their background check. The applicant shall also certify in writing within five days to the Division that they have made the required requests. When requested by the Division, the applicant shall submit a copy and proof of submission of the documents necessary to complete the out-of-state portion of their background check. The Division shall provide to the applicant the necessary information to make these requests, if applicable.

(h) After six months, the Division shall issue a qualification letter to a provisional child care provider if the Division does not receive a response to its request for the state sex offender registry check, the state abuse and neglect registry, or the state criminal history check from the state or states in which the provisional provider currently resides or has resided at any time during the five years prior to submitting documents for a criminal history



check. However, nothing in this Rule shall prevent the Division from disqualifying a provisional child care provider at a later date based upon failure to comply with the requirements of Paragraph (g) of this Rule or if information is received from any other state after six months have elapsed.

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

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

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

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

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

(n) The qualification letter shall be valid for a maximum of three years from the date of issuance.

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

(p) After a child care provider has been qualified, the Division shall complete a new criminal history record check if the Division

of Child Development and Early Education conducts an investigation involving alleged criminal activity by the child care provider.

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

(r) Child care operators shall notify the Division of all new child care providers who are hired or have moved into the home or center located with a residence within five business days by submitting the form provided by the Division.

*History Note: Authority G.S. 110-85; 110-86(7); 110-90.2; 110-106; 114-19.5; 143B-168.3;*

*Temporary Adoption Eff. January 1, 1996;*

*Eff. April 1, 1997;*

*Amended Eff. March 1, 2014; November 1, 2007;*

*Readopted Eff. January 1, 2019;*

*Amended Eff. February 1, 2021.*

### **10A NCAC 09 .2809      ENHANCED SPACE REQUIREMENTS**

(a) There shall be at least 30 square feet inside space per child per the total licensed capacity and 75 square feet outside space for one-third of the total number of the capacity for which the center is licensed. In the alternative there shall be at least 35 square feet inside space per child per the total licensed capacity and 75 square feet outside space per child for the total licensed capacity.

(b) There shall be an area that can be arranged for administrative and private conference activities.

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

*Eff. April 1, 1999;*

*Prior to amendment of May 1, 2006 this language was located in Rule .1604;*

*Amended Eff. May 1, 2006;*

*Readopted Eff. March 1, 2019;*

*Amended Eff. February 1, 2021.*

### **10A NCAC 09 .2817      ENHANCED PROGRAM STANDARDS FOR CHILD CARE CENTERS**

(a) To achieve one point for program standards, the center shall be in compliance with all applicable requirements in Rules .0513-.0516 of this Chapter.

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

Program Standards (.2817) Point Level	Staff/Child Ratio Requirement	Space Requirement	Environment Rating Scale (ERS) Requirements (as referenced in Rule .2802(f) of this Section)
2 Points	Meets enhance Staff/Child Ratio in Rule .2818(b), OR	Meets Enhanced Space in Rule .2809	N/A
3 Points	Meets enhance Staff/Child Ratio in Rule .2818(b), OR	Meets Enhanced Space in Rule .2809; AND	Each classroom has at least a score of 4.0 or higher
4 Points	Meets enhanced Staff/Child Ratio in	N/A	Have an average combined score of 4.5, with no one classroom score lower than 4.0 in each classroom evaluated

	Rule .2818(b), AND		
5 Points	Meets enhanced Staff/Child Ratio in Rule .2818(b), AND	N/A	Have an average combined score of 4.75, with no one classroom score lower than 4.0 in each classroom evaluated
6 Points	Meets enhanced Staff/Child Ratio in Rule .2818(b), AND	Meets Enhanced Space in Rule .2809; AND	Have an average combined score of 5.0, with no one classroom score lower than 4.0 in each classroom evaluated
7 Points	Meets enhanced Staff/Child Ratio in Rule .2818(b), and (c) AND	Meets Enhanced Space in Rule .2809; AND	Have a score of 5.0 in each classroom evaluated

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3; Eff. May 1, 2006; Readopted Eff. March 1, 2019; Amended Eff. February 1, 2021.*

**10A NCAC 09 .2903 STAFF QUALIFICATIONS**

(a) Each center serving children ages birth to three years shall have:

- (1) one staff who holds a NC Birth-through-Kindergarten (B-K) Continuing or Initial License issued by the North Carolina Department of Public Instruction;
- (2) a NC Initial or Continuing Professional License with a B-K or Preschool Add-on issued by the North Carolina Department of Public Instruction;
- (3) a NC Lateral Entry B-K License issued by the North Carolina Department of Public Instruction;
- (4) a NC Residency B-K License issued by the North Carolina Public Instruction; or
- (5) a NC Emergency B-K License issued by the North Carolina Department of Public Instruction as determined by the Early Educator Support, (EES) Unit.

This staff shall provide program oversight and supervision for any caregivers in classrooms with children ages birth to three years.

(b) In accordance with G.S. 115C-84.2(a)(1), during the 185 day school year as defined by the State Board of Education, each child aged three-years-old and older on or before the initial school entry date specified in G.S. 115C-364 (school entry date) shall be served in a classroom with at least one lead teacher who holds an Initial or Continuing Professional B-K License or a NC Professional Educator's License with a Provisional B-K or Preschool Add-on license issued from the Department of Public Instruction.

(c) Children who turn three-years-old after the school entry date who are identified as a child with a disability as evidenced by an Individualized Education Program (IEP), shall be served in a classroom by a teacher who holds a NC Continuing B-K or Initial B-K License; or a NC Professional Educator's License with a Provisional B-K or Preschool Add-on License or NC Lateral Entry B-K License or a Residency B-K License.

(d) Teachers who are required to hold a NC Initial or Continuing B-K License issued by the North Carolina Department of Public Instruction as specified in Paragraph (a) of this Rule shall be enrolled with the Early Educator Support Unit of the Division of Child Development and Early Education. The enrollment application may be found online at [https://ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/N/NCPr e-K\\_EESLPD\\_Enrollment\\_Application\\_REV\\_JUL2019.pdf?ver=2019-08-16-135555-313](https://ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/N/NCPr e-K_EESLPD_Enrollment_Application_REV_JUL2019.pdf?ver=2019-08-16-135555-313).

(e) For centers operating for 12 months as specified by Rule .2902(a) of this Section, during the two additional months of operation each group of preschool children shall have at least one lead teacher with a minimum of an A.A.S. degree in early childhood education or child development, or an A.A.S. degree in any major with 12 semester hours in early childhood education or child development.

(f) For centers operating for 10 months as specified by Rule .2902(a) of this Section, during the 10-month school year, as defined by the State Board of Education, each group of school-age children shall have at least one teacher who holds State certification as a Special Education Teacher. For centers operating for 12 months as specified by Rule .2902(a) of this Section, during the two additional months of operation each group of school-age children shall have at least one teacher who has completed at least two semester hours of school-age care related coursework and has completed or is enrolled in at least two additional semester hours of school-age related coursework.

(g) Center administrators shall have a Level III North Carolina Early Childhood Administration Credential and two years of work experience with children with developmental delays or disabilities.

*History Note: Authority G.S. 110-85; 110-88(5); 110-88(14); Eff. July 1, 2010; Amended Eff. August 1, 2016; March 1, 2014; Readopted Eff. October 1, 2017; Amended Eff. February 1, 2021.*

**10A NCAC 09 .3012 NC PRE-K TEACHER  
EDUCATION, LICENSURE AND CREDENTIALS**

(a) All teachers shall hold, or be eligible to hold a North Carolina (NC) Birth through Kindergarten (B-K) Initial or Continuing License or a NC Professional Educator's Initial or Continuing License with a B-K or Preschool Add-on License issued by the North Carolina Department of Public Instruction. Teachers working toward the required education and license shall meet one of the following requirements:

- (1) a NC B-K Initial License;
- (2) a NC Lateral Entry B-K License;
- (3) a NC Residency B-K License;
- (4) a NC Emergency B-K License as determined by the Early Educator Support (EES) ) Unit;
- (5) a NC Professional Educator's License with a Provisional B-K or Preschool Add-On;
- (6) another state's license; or
- (7) a BA/BS degree and be eligible for a NC Residency B-K License.

(b) Pre-K teachers with a NC Lateral Entry B-K License as specified in Subparagraph (a)(2) of this Rule shall make progress toward the NC Professional Educator's B-K Continuing License by:

- (1) obtaining and following an official Lateral Entry B-K Plan of Study issued by an accredited college or university with a North Carolina Department of Public Instruction approved B-K Teacher Education Program;
- (2) submitting to the Division, college or university transcripts verifying the completion of a minimum of six semester credit hours per school year in accordance with Subparagraph (1) of this Paragraph;
- (3) completing the three-year North Carolina State Board of Education Beginning Teacher Support Program in accordance with G.S. 115C-300.1 and North Carolina State Board of Education Policy LICN-004; TCED-0016; and
- (4) achieving the NC B-K Initial or Continuing Professional License issued by the North Carolina Department of Public Instruction within three years.

(c) Pre-K teachers with a NC Residency B-K License as specified in Subparagraph (a)(3) of this Rule shall make progress toward the NC B-K Initial or Continuing Professional License by:

- (1) obtaining and following an official Residency B-K Plan of Study issued by an approved North Carolina Department of Public Instruction (NCDPI) Educator Preparation Program (EPP) based on:
  - (A) submission of all college transcripts to the EPP;
  - (B) overall GPA of 2.7 or higher on the undergraduate degree or as determined by the EPP; and
  - (C) employment as a Lead Teacher in a non-public NC Pre-K or Developmental Day Preschool classroom;

- (2) submitting to the Division, college or university transcripts verifying the completion of a minimum of six semester credit hours per school year in accordance with Subparagraph (1) of this Paragraph;
- (3) meet the Division's and EPP's requirements to renew the Residency B-K License no more than two times within a three-year period; and
- (4) achieving the NC B-K Initial or Continuing License issued by the North Carolina Department of Public Instruction within three years.

(d) Pre-K teachers with a NC Emergency License shall make progress toward the Residency B-K License by:

- (1) obtaining and following an official Plan of Study prepared by an EPP. This official Plan of Study must specify how to qualify for a Residency B-K License during the upcoming school year.
- (2) submitting to the Division, college or university transcripts verifying the completion of a minimum of six semester credit hours or less per school year in accordance with Subparagraph (1) of this Paragraph; and
- (3) holding an Emergency License does not guarantee conversion to a Residency B-K License the following school year.

(e) Pre-K teachers with a NC Professional Educator's License with a Provisional B-K or [Preschool] Add-on shall make progress towards clearing the Licensure Add-On provisions by:

- (1) obtaining and following a Plan of Study issued by an accredited college or university with a North Carolina Department of Public Instruction approved B-K or Preschool Add-On Teacher Education Program;
- (2) submitting to the Division college or university transcripts verifying the completion of a minimum of six semester credit hours per year in accordance with Subparagraph (1) of this Paragraph;
- (3) completing the three-year North Carolina State Board of Education Beginning Teacher Support Program in accordance with G.S. 115C-300.1 and North Carolina State Board of Education Policy TCED-0016; and
- (4) completing all coursework required as prescribed by the official BK Add-On or Licensure Only Plan of Study within five years from the initial effective date of the BK provisional licensure area established by North Carolina Department of Public Instruction.

(f) Teachers not meeting the annual minimum semester hours as set forth in Subparagraphs (b)(1), (c)(1) and (d)(1) of this Rule shall submit a written request to the Division of Child Development and Early Education Early Educator Support Unit requesting an extension to complete the requirement. Teachers shall submit a written request to the Division of Child Development and Early Education Early Educator Support Unit. The written request shall include the reason for not meeting the

provisions of this Rule, a list of the required coursework and semesters hours to be completed as prescribed by the Plan of Study, a timeline for completing the required semester hours, and documentation supporting course enrollment and expected completion dates.

(g) In determining whether to approve less than the annual minimum required semester hours, the Division shall consider reasons, including:

- (1) parental or family leave;
- (2) death, disability, or illness; and
- (3) natural or man-made disasters.

(h) Teachers shall maintain the B-K or Pre-K/K Add-on Continuing License in accordance with G.S. 115C-296(b)(1)b.4. 115C-296 (II). and NC State Board of Education Policy LICN-005. These policies can be found at <https://simbli.eboardsolutions.com/ePolicy/policy.aspx?PC=LICN-005&Sch=10399&S=10399&C=LICN&RevNo=1.03&T=A&Z=P&St=ADOPTED&PG=6&SN=true>.

(i) Teachers with expired B-K Continuing licenses shall meet the provisions set forth in G.S. 115C-296(II). which can be found at <https://simbli.eboardsolutions.com/ePolicy/policy.aspx?PC=LICN-005&Sch=10399&S=10399&C=LICN&RevNo=1.03&T=A&Z=P&St=ADOPTED&PG=6&SN=true> and North Carolina State Board of Education Policy LICN-005. These policies can be found at <https://simbli.eboardsolutions.com/ePolicy/policy.aspx?PC=LICN-005&Sch=10399&S=10399&C=LICN&RevNo=1.03&T=A&Z=P&St=ADOPTED&PG=6&SN=true>.

(j) The site-level administrator shall maintain documentation available for review by the Division, of the progress toward the requirements as specified in this Rule.

(k) All NC Pre-K lead teachers employed by nonpublic schools must be enrolled with the Early Educator Support Unit of the Division of Child Development and Early Education. The enrollment application may be found online at [https://ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/N/NCPre-K\\_EESLPD\\_Enrollment\\_Application\\_REV\\_JUL2019.pdf?ver=2019-08-16-135555-313](https://ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/N/NCPre-K_EESLPD_Enrollment_Application_REV_JUL2019.pdf?ver=2019-08-16-135555-313).

*History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a); Eff. November 1, 2012; Readopted Eff. October 1, 2017; Amended Eff. February 1, 2021.*

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#### **10A NCAC 14E .0105 APPROVAL**

(a) Approval of construction documents and specifications shall be obtained from the Division of Health Service Regulation, in accordance with the rules in Section .0200 of this Subchapter. The construction documents and specifications require additional approval from the Department of Health and Human Services, Division of Public Health, Environmental Health Section, and the Department of Insurance.

(b) Approval of construction documents and specifications shall expire one year after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of construction documents and specifications.

*History Note: Authority G.S. 14-45.1(a); 143B-10; Eff. February 1, 1976; Readopted Eff. December 19, 1977; Amended Eff. December 1, 1989; Readopted Eff. February 1, 2021.*

#### **10A NCAC 14E .0312 MEDICATIONS AND ANESTHESIA**

(a) No medication or treatment shall be given except on written order of a physician.

(b) Any medications shall be administered by a Registered Nurse licensed in accordance with G.S. 90-171.30 or G.S. 90-171.32 and must be recorded in the patient's permanent record.

(c) The anesthesia shall be administered only under the direct supervision of a licensed physician.

*History Note: Authority G.S. 14-45.1(a); 14-45.1(g); 143B-10; Eff. February 1, 1976; Readopted Eff. December 19, 1977; Readopted Eff. February 1, 2021.*

#### **10A NCAC 14E .0316 FOOD SERVICE**

Nourishments, such as crackers and soft drinks, shall be available and offered to all patients.

*History Note: Authority G.S. 14-45.1(a); 143B-10; Eff. February 1, 1976; Readopted Eff. December 19, 1977; Amended Eff. January 1, 1990; Readopted Eff. February 1, 2021.*

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### **TITLE 14B - DEPARTMENT OF PUBLIC SAFETY**

#### **14B NCAC 15A .1304 DIRECT SHIPMENTS**

(a) A "direct shipment" means a shipment from the distiller or a warehouse of spirituous liquors, or from an antique spirituous liquor seller, directly to a local board without passing through the State ABC warehouse.

(b) In addition to direct shipments authorized pursuant to G.S. 18B-800(c2), direct shipments shall be allowed by the Commission in emergency situations when the State ABC warehouse is closed or in a situation where, for transportation reasons, it is mutually advantageous to local boards and the operator of the State ABC warehouse.

(c) Direct shipment shall have prior written approval from the Commission. Merchandise authorized to be shipped by direct shipment shall be consigned by the State ABC warehouse to the distiller's account in care of the local board. The local board shall acknowledge receipt of the merchandise on the shipping documents and forward them to the Contractor for processing through the accounting system as though the merchandise were shipped from the State ABC warehouse.

(d) Upon compliance with 14B NCAC 15A .1403, an antique spirituous liquor seller may deliver antique spirituous liquor listed in its inventory directly to the local board that placed the special order for that inventory.

*History Note: Authority G.S. 18B-100; 18B-204; 18B-207; 18B-403; 18B-701(a)(1); Eff. January 1, 1982; Amended Eff. January 1, 2011; May 1, 1984; Transferred and Recodified from 04 NCAC 02R .1305 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Amended Eff. February 1, 2021; January 1, 2018.*

**14B NCAC 15A .1305 TRANSPORTATION BETWEEN ABC BOARDS**

- (a) A local board may authorize a distiller representative, brokerage representative, or supplier representative, on its behalf, to transport spirituous liquor owned by the local board to another local board that has purchased, exchanged, or otherwise obtained the spirituous liquor pursuant to Rule 14B NCAC 15A .1301(e). The authorization shall be in writing and shall be accompanied by an invoice for the spirituous liquor being transported.
- (b) A copy of the authorization to transport the spirituous liquor and the invoice for the spirituous liquor shall be in the possession of the distiller representative, brokerage representative, or supplier representative during the transportation.
- (c) The transferring local board shall be responsible for any damage, breakage, or theft of the spirituous liquor being transferred until receipt of the delivery is acknowledged in writing by the receiving local board.
- (d) A copy of the acknowledgement of receipt signed by the receiving local board shall be sent by the receiving local board to the transferring local board together with any applicable payment in accordance with Rule 14B NCAC 15A .1406.
- (e) A distiller representative, brokerage representative, or supplier representative transporting spirituous liquor pursuant to this Rule shall be exempt from the provisions of G.S. 18B-1115 pursuant to G.S. 18B-1115(g).

*History Note: Authority G.S. 18B-100; 18B-204; 18B-207; 18B-1115(g); Eff. February 1, 2021.*

**14B NCAC 15A .1403 SPECIAL ORDERS**

- (a) Spirituous liquor products shall be approved for purchase from the Special Orders Price List as follows:
  - (1) When requested by a customer, a local board shall request that the Commission consider approval for inclusion on the Special Orders Price List any spirituous liquor brand or container size that is not otherwise approved.
  - (2) The Commission shall consider the local board's request, and approve, in accordance with 14B NCAC 15C .0203 and .0204, any brand or product for special order and the addition to the Special Orders Price List,

including the special item case size requirement as established by the vendor.

- (b) When requested by a customer, a local board shall place an order with the Commission for any special item case on the Special Orders Price List. A local board is not required to place an order on behalf of a customer for a quantity less than the case size requirement established by the vendor. If a customer desires to purchase a quantity less than the special item case size of any product, a local board may purchase any unsold bottles in the special item case for public sale. Any bottles purchased by the local board in excess of the quantity ordered by customers shall not be eligible to be sold below the uniform price pursuant to Rule 14B NCAC 15A .1702.
- (c) All customer orders shall be prepaid by the customer prior to the order being placed with the Commission. However, a local board may waive the requirement for the customer to prepay for the order if the local board elects to purchase the portion of the special item case in excess of the quantity ordered by the customer.
- (d) Upon receipt of the special order from the local board, the Commission shall place the order with the vendor for shipment to the State ABC warehouse for delivery to the local board by the Contractor with the Contractor's next regularly scheduled shipment to the local board.
- (e) For purposes of this Section and implementation of G.S. 18B-800(c1), the following terms mean:

- (1) "Special item case" means the vendor's minimum bottle case size for special item products.
- (2) "Special item list" means Special Order Price List.
- (3) "Special Order Price List" means the list of spirituous liquor products approved by the Commission for sale in the State that are not available through the State ABC warehouse, but are available by special order in accordance with this Rule and Rule 14B NCAC 15A .1407.

*History Note: Authority G.S. 18B-100; 18B-101; 18B-207; 18B-800(c); 18B-804; 18B-807; Eff. January 1, 1982; Amended Eff. May 1, 1984; Transferred and Recodified from 04 NCAC 02R .1404 Eff. August 1, 2015; Agency did not readopt rule pursuant to G.S. 150B-21.3A by RRC established deadline of May 31, 2017; Eff. January 1, 2018 (Codifier approved request from agency to reuse rule number); Amended Eff. February 1, 2021.*

**14B NCAC 15A .1407 ANTIQUE SPIRITUOUS LIQUOR SPECIAL ORDERS**

- (a) In addition to the provisions set forth in Paragraph (a) of Rule .1403 of this Section, antique spirituous liquor products shall be approved for purchase from the Special Orders Price List as follows:
  - (1) Upon receipt of a request for inclusion of an antique spirituous liquor on the Special Orders Price List from either the owner of antique

spirituous liquor, a local board at the request of the owner of antique spirituous liquor, or a mixed beverages permittee, the Commission shall consider the request.

- (2) The seller of the antique spirituous liquor shall provide to the Commission an inventory of each product to be sold, the seller's selling price per bottle, and a picture or copy of the label of each product legible to the Commission that allows it to identify the product to be sold.

- (3) Any antique spirituous liquor brand or product approved by the Commission for sale shall be added to the Special Orders Price List, listed by seller. The Commission shall determine the retail price for each product based on the markup formula pursuant to G.S. 18B-804, set up each product in its pricing system, assign code numbers for each product, and notify the local board and the State ABC warehouse of the price and product code number of each product.

(b) An owner of antique spirituous liquor who wants to sell antique spirituous liquor shall obtain a special one-time permit pursuant to G.S. 18B-1002(a)(4) prior to the sale.

(c) A mixed beverages permittee who wants to order antique spirituous liquor from the Special Orders Price List from an antique spirituous liquor seller shall first obtain an antique spirituous liquor permit pursuant to G.S. 18B-1001(20).

(d) When requested by an antique spirituous liquor permittee, a local board shall place an order from the antique spirituous liquor seller for spirituous liquor on the Special Orders Price list.

(e) Upon delivery of the antique spirituous liquor to the local board by the antique spirituous liquor seller, the local board shall notify the antique spirituous liquor permittee the order is available for pickup and the location where it may be picked up. The local board shall collect payment for the antique spirituous liquor from the antique spirituous liquor permittee at the time of the pickup and shall pay the seller's price to the antique spirituous liquor seller from the proceeds of the sale.

(f) Once the local board has possession of the antique spirituous liquor to be sold, the local board shall notify the Commission and the State ABC warehouse and forward the invoice bill of lading for the product to the State ABC warehouse. The State ABC warehouse shall bill the local board for the bailment and bailment surcharge for the product. The local board shall pay the bailment and bailment surcharge to the Commission.

*History Note: Authority G.S. 18B-100; 18B-101; 18B-207; 18B-800(c); 18B-804; 18B-807; 18B-1001; 18B-1002(a)(4); Recodified from 14B NCAC 15A .1403(e) through (j) Eff. February 1, 2021; Eff. February 1, 2021.*

#### **14B NCAC 15A .1706 PURCHASE-TRANSPORTATION PERMITS**

*History Note: Authority G.S. 18B-100; 18B-207; 18B-403; 18B-403.1; 18B-404; 18B-807; Eff. January 1, 1982; Amended Eff. November 1, 2010; July 1, 1992; May 1, 1984;*

*Transferred and Recodified from 04 NCAC 02R .1708 Eff. August 1, 2015;*

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

*Repealed Eff. February 1, 2021.*

#### **14B NCAC 15A .1801 PURCHASE-TRANSPORTATION PERMITS FOR WINE AND LIQUOR**

(a) The Purchase-Transportation Permit shall be issued in triplicate and shall specify the following information on the face of the permit:

- (1) the name and location of the ABC store, retail store, or distillery from which the purchase is to be made;
- (2) whether the purchase is for unfortified wine, fortified wine, or spirituous liquor;
- (3) the destination of the alcoholic beverages, including the address of the location and name of business, if applicable;
- (4) the Special Occasions Permit number of a location, if alcoholic beverages are purchased for a special occasion at a non-residence;
- (5) the time and date of commencement and conclusion of the special occasion, if any;
- (6) the quantity and type of alcoholic beverages purchased;
- (7) the signature and printed name of local ABC official, distillery owner, or designated employee of the owner issuing the permit; and
- (8) the name, address, and driver's license number of the purchaser.

(b) The Purchase-Transportation permit shall contain the following statements:

- (1) The permit is valid for only one purchase transaction on the date shown.
- (2) The permit will expire at 9:30 p.m. on the date of purchase.
- (3) The permit shall accompany the beverages during transport and storage.
- (4) The permit shall be exhibited to any law enforcement officer upon request.

(c) A local board or distillery issuing a Purchase-Transportation Permit shall retain one copy of the permit in its files for a period of one year. For Purchase-Transportation Permits issued by a local board for the purchase of fortified and unfortified wine, the local board shall give the purchaser two copies of the permit, one of which the purchaser shall give the store from which the alcoholic beverages are purchased.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-403; Eff. January 1, 1982; Amended Eff. November 1, 2010; July 1, 1992; May 1, 1984; Transferred and Recodified from 04 NCAC 02R .1801 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Amended Eff. February 1, 2021.*

**14B NCAC 15A .2103 DISTILLERY RECORD-KEEPING**

*History Note:* Authority G.S. 18B-100; 18B-207; 18B-502; 18B-1105;  
*Eff. January 1, 2018;*  
*Repealed Eff. February 1, 2021.*

**14B NCAC 15A .2104 DISTILLERY ISSUED PURCHASE-TRANSPORTATION PERMITS**

The owner of a distillery shall designate in writing any employee of the distillery authorized to issue purchase-transportation permits on behalf of the distillery pursuant to G.S. 18B-403(b)(5). The authority shall remain in effect until it is revoked or the employee is no longer employed by the distillery. The authorization shall be acknowledged in writing by the employee. A copy of the authorization and the signed acknowledgement shall be retained by the permittee while the authorization is effective and for one year after the authority is terminated. A copy of the signed authorization shall be made available by the permittee to the Commission and law enforcement officers upon request.

*History Note:* Authority G.S. 18B-100; 18B-207; 18B-403;  
*Eff. February 1, 2021.*

**14B NCAC 15C .0602 SALES AND PURCHASE RESTRICTIONS: RECORDS**

(a) All malt beverages, unfortified wine, and fortified wine intended for sale, delivery, or shipment to retail permittees in the wholesaler's designated sales territory shall be delivered by the supplier or its designee to the wholesaler. The malt beverages, unfortified wine, and fortified wine delivered to the wholesaler shall be unloaded from the delivery vehicle, placed on the floor of the wholesaler's permitted premises so that its entire weight is supported by the floor, inventoried, inspected, and verified for taxes by the wholesaler. The provisions of this Paragraph do not apply to products sold, delivered, or shipped pursuant to G.S. 18B-1101(7) or G.S. 18B-1104(a)(8).

(b) No wholesaler of malt beverages shall sell malt beverages to any person who does not hold a retail or wholesale malt beverage permit, and no wholesaler of wine shall sell any fortified wine or unfortified wine to any person who does not hold the appropriate retail or wholesale fortified or unfortified wine permit. However, a wholesaler may furnish or sell wine or malt beverages to the wholesaler's employees for the sole use of the employees.

(c) No retail malt beverage or wine permittee shall purchase malt beverages or wine from anyone other than a licensed wholesaler.

(d) All persons holding retail malt beverage or wine permits shall keep the sales tickets and delivery receipts furnished by the wholesaler, pursuant to Rule .0502 of this Subchapter, and all other records of purchases of malt beverages and wine. All receipts and records required to be retained pursuant to this Paragraph shall be kept separate and apart from all other records. Delivery receipts shall set forth terms of sale for each separate transaction between the retailer and the wholesaler and shall include for each separate sale:

- (1) the date of sale;
- (2) the trade name of the retail establishment;

- (3) the location of the retail establishment;
- (4) the quantity of each brand of malt beverages or wine sold;
- (5) the unit price;
- (6) the total price;
- (7) the amount paid; and
- (8) the invoice or receipt number.

(e) The retailer shall retain for inspection copies of all sales tickets and delivery receipts on the premises for three years.

(f) A retail permittee may maintain malt beverage and wine invoices at one location, other than the licensed premises, upon written application to and approval by the Commission. When considering the application, the Commission shall consider the following:

- (1) whether all permits are held by the same applicant;
- (2) whether electronic copies of the invoices will be accessible to law enforcement at the retail location; and
- (3) whether the permittee agrees to make the original invoices available on the licensed premises to law enforcement within 48 hours of the request by law enforcement.

*History Note:* Authority G.S. 18B-100; 18B-207; 18B-1107; 18B-1109; 18B-1113; 18B-1114;

*Eff. January 1, 1982;*

*Amended Eff. July 1, 1992; May 1, 1984;*

*Transferred and Recodified from 04 NCAC 02T .0602 Eff. August 1, 2015;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;*

*Amended Eff. Pending Legislative Review.*

**14B NCAC 15C .0607 MALT BEVERAGE AND WINE SHIPMENTS TO MILITARY BASES**

No industry member except a wholesaler shall ship malt beverages or wine directly to a United States military or naval reservation within North Carolina. All malt beverages and wine intended for that purpose shall be shipped to wholesalers. These beverages shall come to rest upon the warehouse floor of the wholesalers, as set forth in Rule .0602(a) of this Section, who may then deliver them to United States military or naval reservations within North Carolina.

*History Note:* Authority G.S. 18B-100; 18B-109(b); 18B-207; 18B-1101(2); 18B-1102(2); 18B-1104(3); 18B-1113; 18B-1114;

*Eff. January 1, 1982;*

*Amended Eff. May 1, 1984;*

*Transferred and Recodified from 04 NCAC 02T .0609 Eff. August 1, 2015;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;*

*Amended Eff. Pending Legislative Review.*

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

**15A NCAC 02I .0101 PURPOSE OF THIS SUBCHAPTER**

In instances where Rules related to hearings conducted by a Division are not codified, these Rules authorize the designation of employees of the Department as hearing officers, set out the types of hearings which the designated employees are authorized to conduct, and delineate and reference the rules of procedure for conducting rulemaking or other hearings.

*History Note: Authority G.S. 143-215.3(a)(1),(3); Eff. February 1, 1976; Amended Eff. November 1, 1978; Readopted Eff. February 1, 2021.*

**15A NCAC 02I .0102 DEFINITIONS**

The terms used herein shall be as defined in G.S. 143-213 and 150B-2 and as follows:

- (1) "Commission" means the North Carolina Environmental Management Commission.
- (2) "Department" means the Department of Environmental Quality, and its successor.
- (3) "Director" means Director of the Division of Air Quality, Director of the Division of Energy, Mineral, and Land Resources, Director of the Division of Mitigation Services, Director of the Division of Water Resources, or Director of the Division of Waste Management and their successors.
- (4) "Division" means the Division of Air Quality, the Division of Energy, Mineral, and Land Resources, the Division of Mitigation Services, the Division of Water Resources, or the Division of Waste Management and their successors.

*History Note: Authority G.S. 143-215.3(a)(1); 143B-282; Eff. February 1, 1976; Amended Eff. July 1, 1988; November 1, 1978; Readopted Eff. February 1, 2021.*

**15A NCAC 02I .0103 DELEGATIONS**

Unless otherwise directed by the Chair of the Commission, pursuant to Rule .0105 of this Section, the Director is authorized to designate hearing officers, establish the hearings, issue notices and perform other administrative functions in accordance with these Rules. The Director shall advise the Commission at its regularly scheduled meetings of any public hearings held or scheduled since the Commission's last meeting.

*History Note: Authority G.S. 143-215.3(a)(3),(4); Eff. February 1, 1976; Readopted Eff. February 1, 2021.*

**15A NCAC 02I .0104 AUTHORIZED HEARING OFFICERS**

*History Note: Authority G.S. 143-215.4(e); 150B-32; Eff. February 1, 1976;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019; Repealed Eff. February 1, 2021.*

**15A NCAC 02I .0105 REQUIREMENTS OF HEARING OFFICER OR PANEL**

Notwithstanding Rule .0103 of this Section, the Chair of the Commission may designate one or more of Commission members as hearing officer(s) for any hearing. A Commission member may be designated based on factors such as availability, expertise, interest, or the subject matter of the Rule(s).

*History Note: Authority G.S. 143-215.3(a)(3); Eff. February 1, 1976; Amended Eff. July 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019; Amended Eff. February 1, 2021.*

**15A NCAC 02I .0106 DEPARTMENT HEARING RULES**

*History Note: G.S. 87-87; 87-92; 143-215.3(a)(1); 143-215.4; 150B-14; Eff. May 1, 1986; Repealed Eff. February 1, 2021.*

**15A NCAC 02I .0203 PROCEDURES**

- (a) Any person desiring to comment on the proposed action may do so either in writing or by oral presentation. Any person may file a written statement or argument concerning the proposed action prior to the close of the hearing record.
- (b) The hearing officer(s) shall consider all written and oral submissions and submit recommendations concerning the proposed action to the Commission following the close of the hearing record.

*History Note: Authority G.S. 143-214.1(e); 143-215.13(c); Eff. February 1, 1976; Amended Eff. July 1, 1988; Readopted Eff. February 1, 2021.*

**SECTION .0300 - ADMINISTRATIVE HEARINGS**

**15A NCAC 02I .0301 OPPORTUNITY FOR HEARING  
15A NCAC 02I .0302 REQUEST FOR HEARING**

*History Note: Authority G.S. 87-87; 87-92; 143-215.3(a); 143-215.3(a)(1); 143-215.4; 150B-2; 150B-23; Eff. February 1, 1976; Amended Eff. September 1, 1988; July 1, 1988; May 1, 1986; June 15, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019; Repealed Eff. February 1, 2021.*

**15A NCAC 02I .0402 WATER QUALITY DISCHARGE PERMITS: NOTICE: PROCEDURES**



*History Note: Authority G.S. 143-215.1(c)(3); Eff. February 1, 1976; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019; Repealed Eff. February 1, 2021.*

**15A NCAC 02I .0501 FORM AND CONTENTS OF PETITION**

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Commission shall make the request in a petition addressed to the Director of the appropriate division of the Department of Environmental Quality, and a copy in electronic form shall also be sent to the Recording Clerk of the Commission:

Director  
Division of Air Quality  
1641 Mail Service Center  
Raleigh, North Carolina 27699-1641

Director  
Division of Energy, Mineral, and Land Resources  
1612 Mail Service Center  
Raleigh, North Carolina 27699-1612

Director  
Division of Mitigation Services  
1652 Mail Service Center  
Raleigh, North Carolina 27699-1652

Director  
Division of Waste Management  
1646 Mail Service Center  
Raleigh, North Carolina 27699-1646

Director  
Division of Water Resources  
1611 Mail Service Center  
Raleigh, North Carolina 27699-1611

Recording Clerk of the Commission  
Directors Office  
Division of Water Resources  
1611 Mail Service Center  
Raleigh, NC 27699-1611  
EMCclerk@ncdenr.gov

- (b) The petition shall contain the following information:
- (1) the text of the proposed rule(s) for adoption or amendment;
  - (2) a statement of the reasons for adoption or amendment of the proposed rule(s), or the repeal of an existing rule(s);
  - (3) a statement of the effect on existing rules or orders;
  - (4) the name(s) and address(es) of the petitioner(s); and
  - (5) a request to present the petition to the committee in accordance with Rule .0502 of this Section, if desired.

(c) In its review of the proposed rule, the Commission shall consider whether it has authority to adopt the rule; the effect of the proposed rule on existing rules, programs, and practices; probable costs and cost factors of the proposed rule; and the impact of the rule on the public and regulated entities. The petitioner may include the following information within the request:

- (1) the statutory authority for the agency to promulgate the rule(s);
- (2) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including cost factors for persons affected by the proposed rule(s);
- (3) a statement explaining the computation of the cost factors;
- (4) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule(s); and
- (5) documents and data supporting the proposed rule(s).

(d) Petitions that do not contain the information required by Paragraph (b) of this Rule shall be returned to the petitioner by the Director on behalf of the Commission.

*History Note: Authority G.S. 143B-282; 150B-20; Eff. April 1, 2003; Amended Eff. December 1, 2016; November 1, 2012; Readopted Eff. February 1, 2021.*

**15A NCAC 02I .0502 REVIEW BY A COMMITTEE OF THE COMMISSION**

(a) The Chair of the Commission may refer complete petitions to the appropriate subject area Committee of the Commission for review and recommended action. Copies of petitions for rulemaking shall be distributed to the Commission members when referred to a Committee of the Commission.

(b) Within 10 days of the assignment of the complete petition, the Chair of the Committee assigned to review a submitted petition for rulemaking shall announce the date of a meeting to consider the petition.

(c) At least 15 days before the Committee meeting, notice of the Committee meeting shall be sent to the petitioner, members of the Commission, and persons who have requested notice of petitions for rulemaking.

(d) If the petition is referred to a Committee, the petitioner shall be afforded the opportunity to present the petition for rulemaking to the Committee. The Director, division staff or their legal counsel may make a presentation to the Committee.

(e) The Chair of the Committee shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Chair of the Committee may determine whether additional interested persons shall make oral presentations before the Committee.

(f) At least 10 days before the Committee meeting, interested persons shall request the opportunity to make a presentation to the Committee through the Director. The request shall:

- (1) state the interest of the person;
- (2) state the person's position on the petition for rulemaking; and

(3) be accompanied by supporting materials.

(g) During the Committee's review, members of the Commission, other than Committee members, who are present may participate as a member of the Committee in discussions of the petition but may not vote on the recommended action on the petition.

*History Note: Authority G.S. 143B-282; 150B-20;  
Eff. April 1, 2003;  
Readopted Eff. February 1, 2021.*

**15A NCAC 02I .0503 PRESENTATION TO THE COMMISSION**

(a) Petitions for rulemaking shall be presented to the Commission for its consideration and determination at a meeting of the Commission within 120 days following the date of submittal of the petition to the appropriate Division pursuant to Rule .0501 of this Section. If the petition for rulemaking was reviewed by a Committee pursuant to Rule .0502 of this Section, the petition and the Committee's recommended action shall be presented through the Chair of the Committee or other designated member of the Committee during the business session of the Commission. Unless the Chair of the Commission rules otherwise, discussion on the petition shall be limited to the members of the Commission, counsel to the Commission, the Director, or the Division's legal counsel and the petitioner or its legal counsel.

(b) For petitions not referred to a Committee, the Chair of the Commission shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Chair of the Commission may determine whether additional interested persons shall make oral presentations before the Commission. At least 10 days before the Commission meeting, interested persons shall request the opportunity to make a presentation to the Commission through the Director. The request shall:

- (1) state the interest of the person;
- (2) state the person's position on the petition for rulemaking; and
- (3) be accompanied by supporting materials.

(c) Within 120 days following submittal of the petition to the appropriate Division the Commission shall:

- (1) grant the petition in writing, notify the petitioner and initiate rulemaking proceedings in accordance with G.S. 150B-20; or
- (2) deny the petition in writing, stating the reason or reasons for the denial, and send the written denial to the person(s) who submitted the petition.

*History Note: Authority G.S. 143B-282; 150B-20;  
Eff. April 1, 2003;  
Readopted Eff. February 1, 2021.*

**15A NCAC 02I .0504 RECOURSE TO DENIAL OF PETITION**

*History Note: Authority G.S. 143B-282; 150B-20;  
Eff. April 1, 2003;  
Repealed Eff. February 1, 2021.*

**15A NCAC 02I .0601 ISSUANCE OF DECLARATORY RULING**

At the request of any person aggrieved, as defined in G.S. 150B-2(6), the Commission may issue a declaratory ruling as provided in G.S. 150B-4 and the Rules of this Section.

*History Note: Authority G.S. 143B-282; 150B-4;  
Eff. August 1, 2004;  
Readopted Eff. February 1, 2021.*

**15A NCAC 02I .0602 PROCEDURE FOR SUBMISSION OF PETITION**

(a) All requests for a declaratory ruling shall be filed with the Director of the appropriate Division and a copy in electronic form shall also be sent to the Recording Clerk of the Commission:

Director  
Division of Air Quality  
1641 Mail Service Center  
Raleigh, NC 27699-1641

Director  
Division of Energy, Mineral, and Land Resources  
1612 Mail Service Center  
Raleigh, North Carolina 27699-1612

Director  
Division of Mitigation Services  
1652 Mail Service Center  
Raleigh, NC 27699-1652

Director  
Division of Waste Management  
1646 Mail Service Center  
Raleigh, North Carolina 27699-1646

Director  
Division of Water Resources  
1611 Mail Service Center  
Raleigh, NC 27699-1611

Recording Clerk of the Commission  
Directors Office  
Division of Water Resources  
1611 Mail Service Center  
Raleigh, NC 27699-1611  
EMCclerk@ncdenr.gov

(b) All requests shall include the following:

- (1) name and address of petitioner(s);
- (2) the rule, statute or order upon which a ruling is desired;
- (3) a statement as to whether the request is for a ruling on:
  - (A) the validity of a rule; or
  - (B) the applicability of a rule, order or statute to a given factual situation; or

- (C) a conflict or inconsistency within the Commission or the Department regarding interpretation of a law or rule adopted by the Commission;
- (4) arguments or data which demonstrate that the petitioner is aggrieved by the rule or statute or its potential application to the petitioner;
- (5) a statement of the consequences of a failure to issue a declaratory ruling in favor of the petitioner;
- (6) a draft of the proposed ruling; and
- (7) a statement of whether an oral argument is desired, and, if so, the reason(s) for requesting such an oral argument.

(c) A request for a ruling on the applicability of a rule, order, or statute shall include a statement of the specific facts to a given factual situation and documentation supporting those facts. A request for a ruling on the validity of a Commission rule shall state the aggrieved person's reason(s) for questioning the validity of the rule and a brief or legal memorandum supporting the aggrieved person's position. A request for a ruling to resolve a conflict or inconsistency within the Commission or the Department regarding interpretation of a law or rule adopted by the Commission shall include a written description identifying the conflict or inconsistency, the relevant Division(s) and program area(s), the interpretation provided by the agency, and the law or rule in question. A person may ask for multiple types of declaratory rulings in a single request.

(d) In the manner provided in G.S. 150B-23(d), any other person may request to intervene in the request for declaratory ruling. The request to intervene shall be determined by the Chair of the Commission.

*History Note: Authority G.S. 143B-282; 150B-4; Eff. August 1, 2004; Readopted Eff. February 1, 2021.*

#### **15A NCAC 02I .0603 DISPOSITION OF REQUEST**

(a) The Chair of the Commission shall make a determination on the completeness of the request for declaratory ruling based on the requirements of this Section.

(b) Before the Commission decides the merits of the request, the Chair of the Commission may:

- (1) request additional written submissions from the petitioner(s);
- (2) request a written response from the Department or any other person;
- (3) allow the petitioner to file a reply to the response submitted in Subparagraph (2) of this Paragraph; or
- (4) request oral arguments from the petitioner(s) and Department staff or their legal counsel.

(c) The Commission shall make a decision to grant or deny the request according to G.S. 150B-4.

(d) The Commission shall deny the request upon making any of the following findings:

- (1) the request is not complete;
- (2) the petitioner is not a person aggrieved;

- (3) there has been a similar determination in a previous contested case or declaratory ruling;
- (4) the matter is the subject of a pending contested case hearing or litigation in any North Carolina or federal court;
- (5) no genuine controversy exists as to the application of a statute, order, or rule to the factual situation presented;
- (6) the factual context put forward as the subject of the declaratory ruling was considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record;
- (7) the information provided by the petitioner, the Department, or any interveners does not support a determination that a rule is invalid; or
- (8) there is no material conflict or inconsistency within the Commission or Department regarding the law or rule identified by the petitioner.

(e) The Commission shall keep a record of each declaratory ruling, which shall include the following items:

- (1) the request for a ruling;
- (2) any written submission by a party;
- (3) the given state of facts on which the ruling was based;
- (4) any transcripts of oral proceedings, or, in the absence of a transcript, a summary of all arguments;
- (5) any other matter considered by the Commission in making the decision; and
- (6) the declaratory ruling, or the decision to refuse to issue a declaratory ruling, together with the reasons therefore.

(f) For purposes of this Section, a declaratory ruling shall be deemed to be in effect until:

- (1) the statute or rule interpreted by the declaratory ruling is repealed or the relevant provisions of the statute or rule are amended or altered;
- (2) any court of the Appellate Division of the General Court of Justice construes the statute or rule which is the subject of the declaratory ruling in a manner that is irreconcilable with the declaratory ruling;
- (3) the Commission changes the declaratory ruling prospectively; or,
- (4) any court sets aside the declaratory ruling in litigation between the Commission or Department and the party requesting the ruling.

*History Note: Authority G.S. 143B-282; 150B-4; Eff. August 1, 2004; Readopted Eff. February 1, 2021.*

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### 15A NCAC 10B .0409 SALE OF LIVE FOXES AND COYOTES TO CONTROLLED FOX HUNTING PRESERVES

(a) In counties with a trapping season for foxes and coyotes that do not prohibit live sale, licensed trappers may, subject to the restrictions on taking foxes in G.S. 113-291.4, live-trap foxes and coyotes during that season and sell them to licensed controlled fox hunting preserves in accordance with the conditions set forth in this Rule.

(b) Licensed trappers are exempt from captivity permit and captivity license requirements for any live-trapped foxes or coyotes trapped for the purpose of sale to controlled fox hunting preserves. This exemption shall apply during the trapping season for foxes and coyotes, and for no more than 30 days after the trapping season.

(c) Live-trapped foxes and coyotes shall not be held for more than 30 days after capture.

(d) Licensed trappers shall provide drinking water, food of a type and quantity appropriate for the species, and shelter that protects the foxes and coyotes from direct sunlight and precipitation.

(e) Licensed trappers shall be exempt from tagging requirements set forth in this Section so long as the foxes are kept alive.

(f) Licensed trappers and any individual(s) transporting live foxes and coyotes shall have a current and valid transportation permit prior to taking possession of the live foxes and coyotes.

(g) Licensed trappers shall keep accurate written records, on a form provided by the Commission online at [www.ncwildlife.org](http://www.ncwildlife.org), for each fox or coyote sold or transferred to a controlled fox hunting preserve. Records shall contain the following information:

- (1) preserve operator license number, if applicable;
- (2) transportation permit number;
- (3) county of origin;
- (4) number of animals of each species;
- (5) date of capture; and
- (6) date of sale or transfer.

(h) Records required pursuant to this Rule shall be:

- (1) available for inspection by representatives of the Commission upon request;
- (2) submitted to and received by the Commission annually by May 1; and
- (3) retained by the licensed trapper for 12 months following transportation permit expiration.

*History Note:* Authority G.S. 113-134; 113-273(g); 113-291.4; Eff. January 1, 1992; Amended Eff. July 10, 2010; June 1, 2004; Readopted Eff. February 1, 2021.

### 15A NCAC 10F .0308 CLAY COUNTY

(a) Regulated Areas. This Rule shall apply to the following waters in Chatuge Lake:

- (1) within 50 yards of the boat ramp at Ho Hum Campground;
- (2) the waters of Shooting Creek, from a line shore to shore 50 yards west of the High Bridge on NC Highway 175, to a line at the southeast end of Shooting Creek shore to shore, from a point

at 35.01960 N, 83.72752 W; to a point at 35.01979 N, 83.72638 W;

- (3) the waters of Gibson Cove, south of a line from a point on the east shore at 35.01005 N, 83.79750 W to a point on the west shore at 35.01099 N, 83.79929 W, southwest to the end of Gibson Cove;
- (4) within 50 yards of the Chatuge Cove Marina;
- (5) the portion of the cove shore to shore, west of Cottage Court off of NC Highway 175, northeast of a line from a point on the east shore at 35.02576 N, 83.73784 W; to a point on the northwest shore at 35.02609 N, 83.73945 W;
- (6) within 50 yards of the Chatuge Dam Spillway access area;
- (7) the waters of McCracken Cove; and
- (8) within 50 yards of the peninsula at Clay County Recreational Park, from a point on the north shore at 35.00850 N, 83.79254 W, east to a point in the water at 35.00874 N, 83.79187 W, south to a point in the water at 35.00782 N, 83.79119 W, southwest to a point in the water at 35.00672 N, 83.79211 W, west to a point on the shore at 35.00696 N, 83.79259 W.

(b) Speed Limit. It shall be unlawful to operate a vessel at greater than no-wake speed within any of the regulated areas identified in Paragraph (a) of this Rule.

(c) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter a marked public swimming area.

(d) Placement of Markers. The Board of Commissioners of Clay County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the Tennessee Valley Authority and the United States Army Corps of Engineers.

*History Note:* Authority G.S. 75A-3; 75A-15;

Eff. February 1, 1976;

Amended Eff. June 1, 2005; July 1, 1998; February 1, 1990; July 1, 1986; March 25, 1978;

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

Amended Eff. February 1, 2021; October 1, 2018; June 1, 2017.

### 15A NCAC 10F .0317 STANLY COUNTY

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

- (1) Badin Lake; and
- (2) Lake Tillery.
  - (A) Turner Beach Cove shore to shore, south of a point at 35.22529 N, 80.09318 W; and
  - (B) The waters within 50 yards of the fuel docks at the Boathouse and Marina at 712 Berry Hill Drive in Norwood.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat launching ramp while on the waters of a regulated area described in Paragraph (a) of this Rule.

(c) **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 waters of a regulated area described in Paragraph (a) of this Rule.

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

(e) **Placement of Markers.** The Board of Commissioners of Stanly County shall be the designated agency for placement of markers implementing this Rule.

(f) **Notwithstanding Paragraphs (a) through (e) of this Rule,** no person shall operate a vessel at greater than no-wake speed in the waters of Lake Tillery shore to shore, within 85 yards north and 85 yards south of the NC Hwy 24/27/73 bridge eastbound and westbound spans, otherwise known as the James B. Garrison Bridge. The North Carolina Wildlife Resources Commission shall be the designated agency for placement and maintenance of markers for this regulated area.

*History Note: Authority G.S. 75A-3; 75A-15;*

*Eff. February 1, 1976;*

*Amended Eff. July 1, 1995; March 25, 1978; November 1, 1977;*

*Temporary Amendment Eff. June 1, 1998;*

*Amended Eff. July 1, 2000; April 1, 1999; July 1, 1998;*

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

*Amended Eff. October 1, 2018;*

*Emergency Amendment Eff. July 30, 2019;*

*Temporary Amendment Eff. June 1, 2020; October 1, 2019;*

*Amended Eff. February 1, 2021.*

#### **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:
  - (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, 385 yards northeast of the NC Highway 126 bridge at a line from a point on the north shore at 35.74652 N, 81.88231 W to a point on the south shore at 35.74440 N, 81.88017 W, and ending at a line 550 yards southwest of the NC Highway 126 bridge and 50 yards south of the Canal Bridge Boating Access Area dock from a

point on the northwest shore at 35.74163 N, 81.88943 W to a point on the southeast shore at 35.73869 N, 81.88652 W;

(H) 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

(I) 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; and

(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.

*History Note:* Authority G.S. 75A-3; 75A-15;  
 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;  
 Amended Eff. February 1, 2021.

**15A NCAC 10H .1201 DEFINITIONS AND GENERAL REQUIREMENTS**

(a) The rules in this Section apply to all controlled hunting preserve operator licenses issued by the Wildlife Resources Commission (Commission) in accordance with G.S. 113-273(g) for controlled fox hunting preserves.

(b) The following definitions shall apply to all rules in this Section:

- (1) "Acclimation" means an adjustment period to allow foxes and coyotes to become accustomed to the controlled fox hunting preserve.
- (2) "Controlled fox hunting preserve" means an enclosed area where foxes and coyotes are pursued with dogs.
- (3) "Escape den" means a stationary manmade structure that provides refuge for foxes and coyotes from dogs.
- (4) "Dog proof fence" means a perimeter fence designed to prevent the ingress or egress of dogs, foxes, or coyotes over, under, or through the fence.
- (5) "Fox" means red fox and gray fox, including their color morphs.

(c) Any individual wanting to operate a controlled fox hunting preserve shall first obtain a controlled hunting preserve operator license from the Commission.

(d) Applicants for a controlled hunting preserve operator license shall show proof of ownership or lease of the land contained in the proposed controlled fox hunting preserve.

(e) Application for a controlled hunting preserve operator license shall be made online at [www.ncwildlife.org](http://www.ncwildlife.org) or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606. Information required from the applicant shall include:

- (1) the applicant's name, address, telephone number, date of birth;
- (2) the preserve name, address, county, acreage, and GPS coordinates of preserve entrance; and
- (3) species within the preserve.

(f) Controlled hunting preserve operator licenses shall not be transferable, either by transferring the license to another operator or by relocating the site of the preserve.

(g) Upon receipt of an application accompanied by the license fee, the Commission shall issue a controlled fox hunting preserve operator license, provided the rules in this Section regarding establishment of such areas have been complied with.

*History Note:* Authority G.S. 113-134; 113-273(g);  
 Eff. August 1, 1990;  
 Amended Eff. June 1, 2004;  
 Readopted Eff. February 1, 2021.

**15A NCAC 10H .1202 ESTABLISHMENT AND OPERATION**

(a) Boundary of Preserve. Unless otherwise approved by the Commission based upon the topography and hydrology of the preserve, a controlled fox hunting preserve shall be enclosed with a dog-proof fence that meets the following requirements:

- (1) is at least four feet high;
- (2) has a top electrified wire at least three feet above the ground surface;
- (3) has a bottom electrified wire no more than one foot above the ground surface; and
- (4) is free from structures or vegetation purposely placed or allowed to exist that enables wild animals to enter or exit the preserve.

(b) Escape Dens. Controlled fox hunting preserves less than 106 acres shall have a minimum of three escape dens. Those preserves equal to or greater than 106 acres shall have one additional escape den per 1-35 acre interval thereafter.

(c) Stocking Preserve with Game. The following shall apply to foxes and coyotes released into a preserve:

- (1) only foxes and coyotes may be released onto controlled fox hunting preserves;
- (2) operators may purchase live foxes and coyotes from:
  - (A) licensed trappers in accordance with G.S. 113-273(g);
  - (B) other licensed controlled fox hunting preserves;
  - (C) licensed fur propagators; or
  - (D) persons holding foxes or coyotes legally under a captivity license;
- (3) licensed controlled fox hunting preserve operators may hold legally obtained foxes and coyotes in accordance with food, sanitation, and enclosure requirements in 15A NCAC 10H .1404;
- (4) licensed controlled fox hunting preserve operators may transport legally acquired foxes and coyotes from the place of purchase to the controlled fox hunting preserve;
- (5) foxes and coyotes shall not be imported into North Carolina for release into controlled fox hunting preserves;
- (6) individuals transporting live foxes and coyotes to or from a licensed operator shall have a current and valid transportation permit; and
- (7) individuals transporting live foxes and coyotes on behalf of a licensed operator shall have a current and valid transportation permit or a copy of the operator's current controlled fox hunting preserve operator's license.

(d) Dog Density. Each controlled fox hunting preserve shall have an upper limit for dog density rounded to the nearest dog as follows:

- (1) fox only preserve: .5 dog per 1 acre;
- (2) fox and coyote preserve: .75 dog per 1 acre; and
- (3) coyote only preserve: 1 dog per 1 acre.

*History Note:* Authority G.S. 113-134; 113-273(g);  
*Eff. August 1, 1990;*  
*Amended Eff. June 1, 2004;*  
*Readopted Eff. February 1, 2021.*

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

- (a) All foxes and coyotes purchased, acquired, transferred, released, sold, or raised for release on controlled fox hunting preserves shall appear visibly healthy and free from disease.
- (b) All dead foxes and coyotes, except those taken by lawful method(s) shall be reported to the Commission within 48 hours of discovery.
- (c) The Commission may quarantine any controlled fox hunting preserve where contagious diseases are identified, depending on the type and severity of the disease and the risk to other wildlife or humans. Quarantine may include:
  - (1) temporarily prohibiting removal or introduction of foxes and coyotes except as provided by written permit issued by the Commission.
  - (2) notification to the county health department;
  - (3) cleaning or disinfection of the facility; or
  - (4) temporary license suspension.
- (d) A quarantine shall not be lifted or cancelled until the Commission determines that there is no longer a threat of disease exposure to humans, foxes, coyotes, domestic dogs, or other animals.

*History Note:* Authority G.S. 113-134; 113-273(g);  
*Eff. August 1, 1990;*  
*Amended Eff. June 1, 2004;*  
*Readopted Eff. February 1, 2021.*

**15A NCAC 10H .1204 RECORDS REQUIRED**

- (a) License holders shall keep an accurate record, on a form provided by the Commission, for all foxes and coyotes released into or removed from the preserve from licensed trappers, other licensed controlled fox hunting preserves, licensed fur propagators, or persons holding foxes or coyotes legally under a captivity license. Records shall contain the following information:
  - (1) preserve operator license, propagator license, or captivity license number, if applicable;
  - (2) trapper identification number or name and address, if applicable;
  - (3) transportation permit number, if applicable;
  - (4) species and quantity of each;
  - (5) date of purchase or transfer; and
  - (6) county of origin.
- (b) Records shall be available for inspection by representatives of the Commission upon request and during normal operating hours.
- (c) Records shall be submitted to the Commission prior to the reissuance of the license.
- (d) Records shall be retained by the license holder for 12 months following expiration of the license.

*History Note:* Authority G.S. 113-134; 113-273;  
*Eff. August 1, 1990;*  
*Amended Eff. June 1, 2004;*  
*Readopted Eff. February 1, 2021.*

**15A NCAC 10H .1205 HUNTING LICENSE REQUIRED**

- (a) Every person participating in the pursuit of wildlife on a controlled fox hunting preserve shall have a valid resident or nonresident hunting license or controlled hunting preserve hunting license in his or her possession, in accordance with 15A NCAC 10B .0114.
- (b) Nonresidents participating in a Commission-sanctioned field trial, as defined in 15A NCAC 10B .0114, are exempt from licensing requirements in Paragraph (a) of this Rule, provided they have a valid hunting license from their state of residence in their possession.

*History Note:* Authority G.S. 113-134; 113-273(g);  
*Eff. August 1, 1990;*  
*Readopted Eff. February 1, 2021.*

**15A NCAC 10H .1206 MINIMUM STANDARDS FOR CARE OF FOXES AND COYOTES**

- (a) Food and water shall be provided to foxes and coyotes as follows:
  - (1) food shall be of a type and quantity that is appropriate for the species; and
  - (2) a constant supply of drinking water shall be available.
- (b) The following conditions shall apply to the acclimation of newly introduced foxes and coyotes:
  - (1) the acclimation period shall be at least seven days;
  - (2) food and water meeting the requirements in Paragraph (a) of this Rule shall be provided in the area used for acclimation; and
  - (3) chase by dogs during the acclimation period shall be prohibited.

*History Note:* Authority G.S. 113-134; 113-273(g);  
*Eff. August 1, 1990;*  
*Readopted Eff. February 1, 2021.*

**15A NCAC 10H .1207 LICENSE REVOCATION AND ENFORCEMENT**

- (a) Representatives of the Commission shall be permitted to enter the premises of any licensed controlled fox hunting preserve upon request to the license holder or during the preserve's operating hours for inspection, enforcement, or scientific purposes.
- (b) The Executive Director of the Commission or his or her designee may warn, cite, suspend, or revoke a license holder's controlled hunting preserve operator license if the license holder violates applicable provisions of Subchapter IV of Chapter 113 of the North Carolina General Statutes, applicable provisions of G.S. 14-360, the rules of this Section, or any condition of the license. The determination whether to warn, cite, suspend, or revoke a license shall be based upon the seriousness of the violation, which may include:

- (1) felony animal abuse as specified in G.S. 14-360(a1) and (b);
- (2) purposefully releasing foxes and coyotes into the wild;
- (3) falsifying records; or
- (4) failing to notify the appropriate agencies after a potential disease exposure or outbreak.

(c) The Commission shall give the license holder written notice in accordance with G.S. 113-276.2(e) before revoking a license.

(d) If a fox or coyote is unlawfully possessed, the Commission may determine disposition of the unlawfully possessed animal(s), through seizure, release, relocation, or euthanasia.

(e) If the Commission revokes a controlled hunting preserve operator license, the Commission may determine disposition of the animals, through seizure, release, relocation, or euthanasia.

*History Note: Authority G.S. 113-134; 113-273;  
Eff. August 1, 1990;  
Readopted Eff. February 1, 2021.*

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#### **15A NCAC 18A .3401 DEFINITIONS**

The following definitions shall apply to this Section:

- (1) "Division" means the Division of Marine Fisheries or its authorized agent.
- (2) "Enterococcus" means a gram positive coccoid-shaped bacteria that is found in the intestinal tracts of warm-blooded animals that include *Enterococcus faecalis*, *Enterococcus faecium*, *Enterococcus avium*, and *Enterococcus gallinarum*.
- (3) "Geometric mean" means the mean of "n" positive numbers obtained by taking the "n<sup>th</sup>" root of the product of the numbers with at least five samples collected within a 30-day period.
- (4) "Pending swimming advisory" means a notification to the public that recommends no primary contact with the water in a designated swimming area when bacteriological limits are exceeded, but does not close a swimming area to the public. A pending swimming advisory shall include a public notification via social media release to notify the public of the risks of swimming in the area. A pending swimming advisory shall be followed by a resample that will determine if a swimming advisory will be issued.
- (5) "Point source discharge" means the discharge of liquids through a pipe, drain, ditch, or other conveyance into a swimming area.
- (6) "Primary contact" means an activity in water in which a person's head is partially or completely submerged.
- (7) "Resample" means a water sample that is collected by the Division of Marine Fisheries or its authorized agent after the results of the initial water sample collected are processed by the

Division and the results are analyzed by the Division.

(8) "Storm water discharge" means any natural or manmade conveyance of rainwater or the resultant runoff into coastal recreational waters.

(9) "Swimming advisory" means a notification to the public that recommends no primary contact with the water in a designated swimming area when bacteriological limits are exceeded, but does not close a swimming area to the public. A swimming advisory shall include a sign posted at the site of the advisory and a public notification via social media and news release to notify the public of the risks of swimming in the area.

(10) "Swimming area" means a coastal recreation area that is used for primary contact located within waters classified by the Division of Water Resources as SC, SA, or SB as set forth in 15A NCAC 02B .0220 through .0222, and is hereby incorporated by reference including subsequent amendments.

(11) "Swimming season" means from April 1 through October 31 of each year.

(12) "Tier I swimming area" means a swimming area used daily during the swimming season, including all oceanfront beaches that are monitored by the Division.

(13) "Tier II swimming area" means a swimming area that is not used daily during the swimming season.

*History Note: Authority G.S. 113-134; 113-221.3; 143B-289.52;  
Eff. February 1, 2004;  
Readopted Eff. April 1, 2021.*

#### **15A NCAC 18A .3402 BACTERIOLOGICAL LIMITS FOR SWIMMING AREAS**

(a) The enterococcus level in a Tier I swimming area shall not exceed either:

- (1) A geometric mean of 35 enterococci per 100 milliliter of water, that includes a minimum of at least five samples collected within 30 days; or
- (2) A single sample of 104 enterococci per 100 milliliter of water.

(b) The enterococcus level in a Tier II swimming area shall not equal or exceed a single sample of 104 enterococci per 100 milliliter of water.

*History Note: Authority G.S. 113-134; 113-221.3; 143B-289.52;  
Eff. February 1, 2004;  
Readopted Eff. April 1, 2021.*

#### **15A NCAC 18A .3403 PUBLIC NOTICE OF INCREASED HEALTH RISKS IN SWIMMING AREAS**

(a) Tier I Swimming areas:



- (1) A pending swimming advisory shall be issued by the Division of Marine Fisheries if a water sample from a swimming area is equal to or exceeds the bacteriological limit set forth in Rule .3402(a)(2) of this Section during the swimming season.
  - (2) A swimming advisory shall be issued by the Division if either of the following standards are exceeded during the swimming season:
    - (A) Both the initial water sample and resample collected from a swimming area are equal to or exceed the bacteriological limit set forth in Rule .3402(a)(2) of this Section; or
    - (B) The most recent five water samples collected within a 30-day period from a swimming area are equal to or exceed the bacteriological limit set forth in Rule .3402(a)(1) of this Section.
- (b) Tier II swimming areas:
- (1) A pending swimming advisory shall be issued by the Division if a water sample from a swimming area is equal to or exceeds the bacteriological limit set forth in Rule .3402(a)(2) of this Section during the swimming season.
  - (2) A swimming advisory shall be issued by the Division if both the initial water sample and resample collected from a swimming area are equal to or exceed the bacteriological limit set forth in Rule .3402(a)(2) of this Section during the swimming season.

(c) Signs posted pursuant to this Section shall be placed or erected in open view where the public may see the sign prior to entering the water.

(d) Signs shall state the following:

ATTENTION: SWIMMING IN THIS AREA IS NOT RECOMMENDED. BACTERIA TESTING INDICATES LEVELS OF CONTAMINATION THAT MAY BE HAZARDOUS TO YOUR HEALTH. THIS ADVISORY AFFECTS WATERS WITHIN 200' OF THIS SIGN. OFFICE OF THE STATE HEALTH DIRECTOR.

*History Note:* Authority G.S. 113-134; 113-221.3; 143B-289.52;  
*Eff. February 1, 2004;*  
*Readopted Eff. April 1, 2021.*

**15A NCAC 18A .3404 SWIMMING ADVISORIES FOR POINT SOURCE DISCHARGES INTO SWIMMING AREAS**

(a) The Division of Marine Fisheries shall post at least one sign at a wastewater treatment plant that discharges into swimming waters, which shall stay posted until the discharge is removed. The sign for a wastewater treatment plant discharge shall state the following:

WARNING! SEWAGE TREATMENT EFFLUENT DISCHARGE SITE. SWIMMING IS NOT ADVISED IN THESE WATERS BECAUSE OF THE INCREASED RISK OF ILLNESS. OFFICE OF THE STATE HEALTH DIRECTOR.

(b) A swimming advisory shall be issued by the Division and at least one sign shall be posted at the public access to swimming waters that have been impacted by a wastewater system failure. The sign for waters impacted by a wastewater spill shall state the following:

WARNING! WASTEWATER SPILL. SWIMMING IS NOT ADVISED IN THESE WATERS BECAUSE OF THE INCREASED RISK OF ILLNESS. OFFICE OF THE STATE HEALTH DIRECTOR.

(c) A swimming advisory shall be issued by the Division and at least one sign shall be posted at a storm drain or pipe or storm water discharge that is discharging into a Tier 1 swimming area. A sign shall be placed to advise the public as they enter the area impacted by the storm drain or pipe or storm water discharge. For dry weather discharges, the sign shall state the following:

WARNING! STORM WATER DISCHARGE AREA. SWIMMING WITHIN 200 YARDS OF THIS SIGN MAY INCREASE THE RISKS OF WATERBORNE ILLNESS. OFFICE OF THE STATE HEALTH DIRECTOR.

For wet weather discharges, the sign shall state the following:

WARNING! STORM WATER DISCHARGE AREA. WATERS MAY BE CONTAMINATED BY DISCHARGE FROM PIPE. SWIMMING IS NOT RECOMMENDED WITHIN 200 YARDS OF THIS SIGN DURING ACTIVE DISCHARGE. FOR MORE INFORMATION, CALL 252-726-6827. OFFICE OF THE STATE HEALTH DIRECTOR.

(d) A swimming advisory shall be issued by the Division and at least two signs shall be posted at a storm drain or pipe where flood waters are being pumped into a swimming area. The signs shall state the following:

SWIMMING IS NOT RECOMMENDED BETWEEN SIGNS. WATERS MAY BE CONTAMINATED BY DISCHARGE FROM PIPE. OFFICE OF THE STATE HEALTH DIRECTOR.

(e) A swimming advisory shall be issued by the Division and at least two signs shall be posted at an area receiving dredge material on a swimming beach if the dredge material is being pumped from an area closed to shellfish harvesting. The signs shall state the following:

SWIMMING IS NOT RECOMMENDED BETWEEN SIGNS. WATERS MAY BE CONTAMINATED BY DISCHARGE FROM PIPE. OFFICE OF THE STATE HEALTH DIRECTOR.

*History Note:* Authority G.S. 113-134; 113-221.3; 143B-289.52;  
*Eff. January 1, 2004;*  
*Readopted Eff. April 1, 2021.*

**15A NCAC 18A .3405 RESCINDING A PENDING SWIMMING ADVISORY OR SWIMMING ADVISORY**

(a) A pending swimming advisory shall be rescinded by the Division of Marine Fisheries via social media release when the resample collected meets the bacteriological limit set forth in Rule .3402(a)(2) of this Section.

(b) A Tier I swimming area advisory shall be rescinded by the Division via social media and news release, including the removal of signs, when both of the following conditions are met:

- (1) the geometric mean has met the bacteriological limit set forth in Rule .3402(a)(1) of this Section; and
- (2) two consecutive weekly water samples meet the bacteriological limit set forth in Rule .3402(a)(2) of this Section.

(c) A Tier II swimming area advisory shall be rescinded by the Division via social media and news release, including the removal of signs, after water samples meet the bacteriological limit set forth in Rule .3402(b) of this Section.

(d) A swimming advisory resulting from a flood water discharge or the discharge of dredge material shall be rescinded by the Division via social media and news release, including the removal of signs, 24 hours after the discharge has ceased, to allow for tidal dispersion.

(e) A swimming advisory resulting from a wastewater system failure shall be rescinded by the Division via social media and news release, including the removal of signs, when failure has been corrected and water samples collected meet the bacteriological limit set forth in Rule .3402(a)(2) of this Section.

*History Note: Authority G.S. 113-134; 113-221.3; 143B-289.52;*

*Eff. January 1, 2004;*

*Readopted Eff. April 1, 2021.*

**15A NCAC 18A .3406 DESTRUCTION OF SIGNS  
15A NCAC 18A .3407 APPLICABILITY OF RULES**

*History Note: Authority G.S. 130A-233.1;*

*Eff. January 1, 2004;*

*Repealed Eff. April 1, 2021.*

**TITLE 18 - DEPARTMENT OF THE SECRETARY OF STATE**

**18 NCAC 06A .2120 SUNSET PROVISION**

(a) The Administrator shall not accept any new Form NCE-LPO or other filing related to a new LPO after April 1, 2025.

(b) The rules in this Section shall expire on April 1, 2026.

*History Note: Authority G.S. 78A-17.1(a)(5); 78A-17.1(f); 78A-49(a); 78A-49(d);*

*Eff. April 1, 2017;*

*Temporary Amendment Eff. July 1, 2020;*

*Amended Eff. February 1, 2021.*

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

**CHAPTER 06 – BOARD OF BARBER EXAMINERS**

**21 NCAC 06F .0128 WAIVER OF REQUIREMENTS DURING DISASTER OR EMERGENCY**

(a) If the Governor declares a state of emergency, the following exceptions shall apply to barber schools and students:

- (1) Schools shall maintain a monthly record of the subject matter taught to the student in theory classes, the requirement in Rule .0110(4) of this Subchapter for a weekly record notwithstanding.
- (2) Schools shall provide to the Board the list of students required by G.S. 86A-22(5) by the last day of each month, the requirement in Rule .0110(6) of this Subchapter for schools to submit the list by the 15th of each month notwithstanding.
- (3) Within 60 days of the date on which any student completes his or her course of study, drops out of school, or transfers to another school, the barber school shall return the student permit to the Board, the requirement in Rule .0113(d) of this Subchapter to return the student permit within five business days notwithstanding.
- (4) Students shall not be required to meet the requirements in Rule .0122 of this Subchapter if the students are attending online classes.
- (5) No student shall be given credit for more than 10 total hours during any instruction day, the restriction to eight hours in Rule .0124(a) of this Subchapter notwithstanding.
- (6) The restrictions on off-campus hours in Rule .0124(c) of this Subchapter shall not apply to hours that students receive during a state of emergency.
- (7) Schools shall not be required to revise the handbooks required by Rule .0125 of this Subchapter to reflect the exceptions listed in this Rule.

(b) The exceptions in this Rule shall only apply through the duration of the state of emergency.

*History Note: Authority G.S. 86A-22;*

*Emergency Adoption Eff. March 27, 2020;*

*Temporary Adoption Eff. June 1, 2020;*

*Eff. February 1, 2021.*

**21 NCAC 06N .0102 FORM BAR-1**

(a) The Form BAR-1 shall be filed when one applies to open or manage a new barber shop. It requests the following:

- (1) the name and address of the shop;
- (2) the name, address, and certificate number of the manager;
- (3) the name and address of the shop owner;
- (4) the physical dimensions of the shop;
- (5) the shop business hours;

- (6) the type of fixtures installed; and
- (7) the date the shop will be ready for inspection.
- (b) The fee required by Rule .0101(a)(19) of this Section shall accompany this form.
- (c) The Form BAR-1 shall include the applicant's attestation that the information in the form is correct.

*History Note: Authority G.S. 86A-1; 86A-13; 86A-15; 86A-25;*  
*Eff. February 1, 1976;*  
*Readopted Eff. February 8, 1978;*  
*Amended Eff. March 1, 1983;*  
*Legislative Objection Lodged Eff. March 7, 1983;*  
*Curative Amended Eff. April 6, 1983;*  
*Amended Eff. May 1, 1989;*  
*Readopted Eff. July 1, 2016;*  
*Amended Eff. February 1, 2021; October 1, 2020.*

**21 NCAC 06N .0111 FORM BAR-10**

- (a) The Form BAR-10 is a report that shall be filed monthly by the manager of the school for each student enrolled in barber school. It requires the following:
  - (1) the name of the school submitting the report;
  - (2) the name and date of enrollment of the student;
  - (3) the month and year for which the report is filed;
  - (4) the dates and hours of the student's absences;
  - (5) the dates and hours of the student's attendance;
  - (6) the number of patrons served for clinical services; and
  - (7) the subject matter covered in practical and theory courses.
- (b) The Form BAR-10 shall be submitted to the Board over the signature of the manager of the school and co-signed by the student.
- (c) If a student completes his or her course of study, drops out of school, or transfers to another school, the barber school shall return the Form BAR-10 to the Board:
  - (1) within five business days; or
  - (2) within 30 days if the student's enrollment ends during the effective period of a state of emergency declared by the Governor.

*History Note: Authority G.S. 86A-22;*  
*Eff. May 1, 1989;*  
*Readopted Eff. July 1, 2016;*  
*Emergency Adoption Eff. March 27, 2020;*  
*Temporary Adoption Eff. June 1, 2020;*  
*Amended Eff. February 1, 2021.*

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**CHAPTER 32 - MEDICAL BOARD**

**21 NCAC 32S .0212 PRESCRIPTIVE AUTHORITY**

A physician assistant may prescribe, order, procure, dispense, and administer drugs and medical devices subject to the following conditions:

- (1) The physician assistant complies with all State and federal laws regarding prescribing, including G.S. 90-18.1(b);
- (2) Each supervising physician and physician assistant incorporates within his or her written supervisory arrangements, as defined in Rule .0201(9) of this Section, instructions for prescribing, ordering, and administering drugs and medical devices and a policy for periodic review by the physician of these instructions and policy;
- (3) In order to compound and dispense drugs, the physician assistant complies with G.S. 90-18.1(c);
- (4) In order to prescribe controlled substances:
  - (a) the physician assistant must have a valid Drug Enforcement Administration (DEA) registration and prescribe in accordance with DEA rules;
  - (b) refills shall be issued consistent with Controlled Substance Law and regulations; and
  - (c) the supervising physician shall possess at least the same schedule(s) of controlled substances as the physician assistant's DEA registration;
- (5) Each prescription issued by the physician assistant contains, in addition to other information required by law, the following:
  - (a) the physician assistant's name, practice address, and telephone number; and
  - (b) if applicable, the physician assistant's DEA number for controlled substances prescriptions;
- (6) The physician assistant documents prescriptions in writing on the patient's record, including the medication name and dosage, amount prescribed, directions for use, and number of refills;
- (7) A physician assistant who requests, receives, and dispenses medication samples to patients complies with all applicable State and federal regulations; and
- (8) A physician assistant shall not prescribe controlled substances, as defined by the State and federal controlled substances acts, for:
  - (a) the physician assistant's own use;
  - (b) the use of the physician assistant's supervising physician;
  - (c) the use of the physician assistant's immediate family;
  - (d) the use of any person living in the same residence as the physician assistant; or
  - (e) the use of any anyone with whom the physician assistant is having a sexual relationship.

As used in this Item, "immediate family" means a spouse, parent, child, sibling, parent-in-law, son-in-law or daughter-in-law, brother-in-law or sister-in-law, step-parent, step-child, or step-sibling.

*History Note: Authority G.S. 90-5.1(a)(3); 90-18.1; Eff. September 1, 2009;*  
*Amended Eff. May 1, 2015; August 1, 2012;*  
*Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;*  
*Amended Eff. February 1, 2021; Amended Eff. May 1, 2018.*

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## CHAPTER 46 – BOARD OF PHARMACY

### 21 NCAC 46 .1819 COVID-19 DRUG PRESERVATION RULE

(a) The following drugs are "Restricted Drugs" as that term is used in this Rule:

- (1) Hydroxychloroquine;
- (2) Chloroquine;
- (3) Lopinavir-ritonavir;
- (4) Ribavirin; and
- (5) Darunavir.

(b) A pharmacist shall fill or refill a prescription for a Restricted Drug only if that prescription bears a written diagnosis from the prescriber consistent with the evidence for its use.

(c) When a patient has been diagnosed with COVID-19, any prescription of a Restricted Drug for the treatment of COVID-19 shall:

- (1) Indicate on the prescription order that the patient has been diagnosed with COVID-19;
- (2) Be limited to no more than a 14-day supply; and
- (3) Not be refilled, unless a new prescription order is issued in conformance with this Rule, including not being refilled through an emergency prescription refill.

(d) A pharmacist shall not fill or refill a prescription for a Restricted Drug for the prevention of, or in anticipation of, the contraction of COVID-19 by someone who has not yet been diagnosed.

(e) A prescription for a Restricted Drug may be transmitted orally only if all information required by this Rule is provided to the pharmacy by the prescriber or the prescriber's agent, and that information is recorded in writing by the pharmacy, along with the identity of the prescriber or prescriber's agent transmitting the prescription.

(f) This Rule does not affect orders for administration to inpatients of health care facilities.

(g) This Rule does not apply to prescriptions for a Restricted Drug for a patient previously established on that particular Restricted Drug on or before March 10, 2020.

*History Note: Authority G.S. 90-85.6; 90-85.26; 90-85.32;*  
*Emergency Adoption Eff. April 1, 2020;*  
*Temporary Adoption Eff. June 26, 2020;*  
*Eff. February 1, 2021.*

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## **RULES REVIEW COMMISSION**

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*This Section contains information for the meeting of the Rules Review Commission March 18, 2021 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 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

### **RULES REVIEW COMMISSION MEMBERS**

#### **Appointed by Senate**

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

#### **Appointed by House**

Anna Baird Choi (1st Vice Chair)  
Andrew P. Atkins (2nd Vice Chair)  
Paul Powell  
Randy Overton  
Vacant

### **COMMISSION COUNSEL**

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

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

March 18, 2021	May 20, 2021
April 15, 2021	June 17, 2021

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### **AGENDA**

#### **RULES REVIEW COMMISSION**

**THURSDAY, MARCH 18, 2021 9:00 A.M.**

**1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
  - A. Department of Public Safety – 14B NCAC 19A .0101, .0102, .0103, .0104; 19B .0101, .0102, .0103, .0104, .0105, .0106, .0107; 19C .0101 (Reeder)
  - B. State Board of Education - 16 NCAC 06B .0114 (Snyder)
  - C. State Board of Education - 16 NCAC 06G .0508 (Snyder)
  - D. Building Code Council - Residential Code, N1101.13(R401.2) (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between January 21, 2021 through February 22, 2021
  - Department of Environmental Quality 15A NCAC 01 (Reeder)
  - Department of Environmental Quality 15A NCAC 04 (May)
  - Medical Care Commission (May)
  - Commission for Public Health 10A NCAC 41 (May)
  - Alarm Systems Licensing Board (Reeder)
  - Coastal Resources Commission (Snyder)
  - Commission for Public Health 15A NCAC 18A (May)
  - Board of Barber Examiners (Reeder)
  - Landscape Contractors' Licensing Board (Snyder)
  - Board of Massage and Bodywork Therapy (May)
  - Medical Board (Snyder)
  - Board of Funeral Service (May)
  - State Board of Opticians (May)
  - Veterinary Medical Board (Reeder)
  - Office of Administrative Hearings

- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
  - VI. Existing Rules Review
  - VII. Commission Business
    - Next meeting: April 15, 2021
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**Commission Review  
Log of Permanent Rule Filings  
January 21, 2021 through February 22, 2021**

**ENVIRONMENTAL QUALITY, DEPARTMENT OF**

The rules in Chapter 41 are from the State Energy Office.

The rules in Subchapter 41C concern the energy improvement loan program including general provisions (.0100); loans (.0200); and technical analysis (.0300).

<u>Definitions</u>	01	NCAC	41C	.0101
Readopt with Changes*				
<u>Eligibility</u>	01	NCAC	41C	.0201
Readopt with Changes*				
<u>Criteria for Energy Conservation Loans</u>	01	NCAC	41C	.0202
Readopt with Changes*				
<u>Loan Percentage and Conditions and Limitations</u>	01	NCAC	41C	.0203
Readopt with Changes*				
<u>Pre-Application Conference</u>	01	NCAC	41C	.0204
Readopt with Changes*				
<u>Application Procedures</u>	01	NCAC	41C	.0205
Readopt with Changes*				
<u>Application Review</u>	01	NCAC	41C	.0206
Readopt with Changes*				
<u>Loan Approval</u>	01	NCAC	41C	.0207
Readopt with Changes*				
<u>Loan Agreement and Promissory Note</u>	01	NCAC	41C	.0208
Readopt with Changes*				
<u>Reports</u>	01	NCAC	41C	.0209
Readopt with Changes*				
<u>Monitoring</u>	01	NCAC	41C	.0210
Readopt without Changes*				
<u>Default</u>	01	NCAC	41C	.0211
Readopt with Changes*				
<u>Technical Analysis Required</u>	01	NCAC	41C	.0301
Readopt with Changes*				
<u>Technical Analyst Disqualifications</u>	01	NCAC	41C	.0302
Readopt with Changes*				
<u>Report Required</u>	01	NCAC	41C	.0303
Readopt with Changes*				

The rules in Subchapter 41D concern the energy policy act credit and banking selling program including general provisions (.0100); credit banking and selling program provisions (.0200); proceeds and distribution (.0300); and reports (.0400).

<u>Purpose and Organization</u>	01	NCAC	41D	.0101
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Readopt without Changes\*

Definitions 01 NCAC 41D .0102

Readopt without Changes\*

Banking 01 NCAC 41D .0201

Readopt without Changes\*

Selling 01 NCAC 41D .0202

Readopt without Changes\*

Proceeds and Distribution 01 NCAC 41D .0301

Readopt without Changes\*

Fund Disbursements 01 NCAC 41D .0302

Readopt without Changes\*

Reports 01 NCAC 41D .0401

Readopt without Changes\*

The rules in Subchapter 12C concern organization.

Residential Conservation Service Program 04 NCAC 12C .0108

Readopt/Repeal\*

The rules in Subchapter 12D concern petition for rulemaking and declaratory ruling.

Delegation of Authority for Rulemaking Hearings and State... 04 NCAC 12D .0101

Amend\*

Submission and Content of Petition for Rulemaking 04 NCAC 12D .0102

Readopt with Changes\*

Contents of Petition 04 NCAC 12D .0103

Readopt/Repeal\*

Issuance of Declaratory Rulings 04 NCAC 12D .0116

Readopt with Changes\*

Disposition of Requests for Declaratory Ruling 04 NCAC 12D .0117

Readopt with Changes\*

Disposition of Petitions for Rulemaking 04 NCAC 12D .0132

Adopt\*

Submission of Request for Declaratory Ruling 04 NCAC 12D .0133

Adopt\*

## **MEDICAL CARE COMMISSION**

The rules in Subchapter 13O deal with the registries maintained by the Department of Health and Human Services including the healthcare personnel registry (.0100); medication aide registry (.0200); nurse aide I registry (.0300).

Nurse Aide I Training and Competency Evaluation 10A NCAC 13O .0301

Amend\*

## **PUBLIC HEALTH, COMMISSION FOR**

The rules in Chapter 41 concern epidemiology health.

The rules in Subchapter 41A concern communicable disease control and include reporting of communicable diseases (.0100); control measures for communicable diseases including special control measures (.0200-.0300); immunization (.0400); purchase and distribution of vaccine (.0500); special program/project funding (.0600); licensed nursing home services (.0700); communicable disease grants and contracts (.0800); and biological agent registry (.0900).

Reportable Diseases and Conditions 10A NCAC 41A .0101

Amend\*

## **ALARM SYSTEMS LICENSING BOARD**

The rules in Chapter 17 are from the N.C. Alarm Systems Licensing Board and cover the organization and general provisions (.0100); provisions for licensees (.0200); provisions for registrants (.0300); the recovery fund (.0400); and continuing education for licensees (.0500).

Experience Requirements for a License  
Amend\*

14B NCAC 17 .0202

## **COASTAL RESOURCES COMMISSION**

The rules in Subchapter 7H are the state guidelines for areas of environmental concern (AECs) including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); general permit to construct boat ramps along estuarine and public trust shorelines and into estuarine and public trust waters (.1300); groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); construction of sheetpile sill for shoreline protection in estuarine and public trust waters (.2100); construction of freestanding moorings in established waters and public trust areas (.2200); replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); placement of riprap for wetland protection in estuarine and public trust waters (.2400); replacement of structures; the reconstruction of primary or frontal dune systems; and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms (.2500); construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

Public Water Supply Categories  
Readopt without Changes\*

15A NCAC 07H .0401

AECs Within Public Water Supplies  
Readopt without Changes\*

15A NCAC 07H .0404

Small Surface Water Supply Watersheds  
Readopt without Changes\*

15A NCAC 07H .0405

Public Water Supply Well Fields  
Readopt without Changes\*

15A NCAC 07H .0406

The rules in Subchapter 7J concern procedures for handling major development permits, variance requests, appeals from minor development permit decisions and declaratory rulings. They include definitions (.0100); permit application and procedures (.0200); hearing procedures (.0300); final approval and enforcement (.0400); general permits (.0500); declaratory rulings and petitions for rulemaking (.0600); procedures for considering variance petitions (.0700); general permit procedure (.1100); static vegetation line exception procedures (.1200); and development line procedures (.1300).

Development Period/Commencement/Continuation  
Readopt without Changes\*

15A NCAC 07J .0403

Development Period Extension  
Readopt without Changes\*

15A NCAC 07J .0404

Permit Modification  
Readopt without Changes\*

15A NCAC 07J .0405

Permit Issuance and Transfer  
Readopt without Changes\*

15A NCAC 07J .0406



<u>Project Maintenance: Major Development/Dredge and Fill</u>	15A	NCAC	07J	.0407
Readopt without Changes*				
<u>Civil Penalties</u>	15A	NCAC	07J	.0409
Readopt without Changes*				
<u>Restoration/Mitigation</u>	15A	NCAC	07J	.0410
Readopt without Changes*				

rules in Subchapter 7K set out activities in areas of environmental concern (AECs) which do not require a Coastal Area Management Act (CAMA) permit. These include activities that are not considered development (.0100); exempt minor maintenance and improvement (.0200); and exempt federal agency activities (.0400).

<u>Structural Accessways Over Frontal Dunes Exempted</u>	15A	NCAC	07K	.0207
Readopt without Changes*				

## **PUBLIC HEALTH, COMMISSION FOR**

The rules in Chapter 18 cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies (18C), and water treatment facility operators (18D).

The rules in Subchapter 18A deal with sanitation and include handling, packing and shipping of crustacean meat (.0100) and shellfish (.0300 and .0400); operation of shellstock plants and reshippers (.0500); shucking and packing plants (.0600); depuration mechanical purification facilities (.0700); wet storage of shellstock (.0800); shellfish growing waters (.0900); summer camps (.1000); grade A milk (.1200); hospitals, nursing homes, rest homes, etc. (.1300); mass gatherings (.1400); local confinement facilities (.1500); residential care facilities (.1600); protection of water supplies (.1700); lodging places (.1800); sewage treatment and disposal systems (.1900); migrant housing (.2100); bed and breakfast homes (.2200); delegation of authority to enforce rules (.2300); public, private and religious schools (.2400); public swimming pools (.2500); restaurants, meat markets, and other food handling establishments (.2600); child day care facilities (.2800); restaurant and lodging fee collection program (.2900); bed and breakfast inns (.3000); lead poisoning prevention (.3100); tattooing (.3200); adult day service facilities (.3300); primitive camps (.3500); rules governing the sanitation of resident camps (.3600); and private drinking water well sampling (.3800).

<u>Disinfection of Water Systems</u>	15A	NCAC	18A	.1724
Readopt with Changes*				
<u>Definitions</u>	15A	NCAC	18A	.3101
Readopt with Changes*				
<u>Lead Poisoning Hazard and Clearance Standard for Soil</u>	15A	NCAC	18A	.3105
Readopt with Changes*				
<u>Maintenance Standard</u>	15A	NCAC	18A	.3107
Readopt with Changes*				
<u>Sample Collection</u>	15A	NCAC	18A	.3802
Readopt with Changes*				

## **BARBER EXAMINERS, BOARD OF**

The rules in Subchapter 06F concern barber schools.

<u>Barber School Curricula</u>	21	NCAC	06F	.0120
Amend*				
<u>Student Hours</u>	21	NCAC	06F	.0124
Amend*				

## **LANDSCAPE CONTRACTORS' LICENSING BOARD**

The rules in Subchapter 28B are from the Landscape Contractors' Licensing Board and include board meetings and definitions (.0100); licensure, reciprocity, and seal (.0200); license renewal and reinstatement (.0300); continuing

education (.0400); minimum standards (.0500); fees (.0600); complaints and investigations (.0700); and hearings process and summary suspension (.0800).

Emergency Extensions of Continuing Education Requirements... 21 NCAC 28B .0406  
Adopt\*

### **MASSAGE AND BODYWORK THERAPY, BOARD OF**

The rules in Chapter 30 concern organization and general provisions (.0100); application for licensure (.0200); licensing (.0300); business practices (.0400); standards of professional conduct (.0500); massage and bodywork therapy schools (.0600); continuing education (.0700); rules (.0800); complaints, disciplinary action, and hearings (.0900); and massage and bodywork therapy establishments (.1000).

Waiver of Requirements During Disaster or Emergency 21 NCAC 30 .0636  
Adopt\*

Waiver of Requirements During Disaster or Emergency 21 NCAC 30 .0704  
Adopt\*

### **MEDICAL BOARD**

The rules in Subchapter 32B concern license to practice medicine including prescribing (.1000); general (.1300); resident's training license (.1400); faculty limited license (.1500); purpose license (.1600); other business (.1700); and expedited license for physician license (.2000).

COVID-19 Drug Preservation Rule 21 NCAC 32B .1708  
Adopt\*

The rules in Subchapter 32M regulate the approval, registration and practice of nurse practitioners (.0100).

COVID-19 Drug Preservation Rule 21 NCAC 32M .0119  
Adopt\*

### **FUNERAL SERVICE, BOARD OF**

The rules in Subchapter 34B are funeral service rules including rules relating to resident trainees (.0100); examinations (.0200); licensing (.0300); continuing education (.0400); out-of-state licensees (.0500); funeral establishments (.0600); and preparation of dead bodies (.0700).

License Renewal Form 21 NCAC 34B .0309  
Amend\*

### **OPTICIANS, STATE BOARD OF**

The rules in Chapter 40 are from the Board of Opticians and concern location (.0100); conduct of registrants (.0200); qualifications, applications, and licensing (.0300); and administrative hearings (.0400).

Waiver 21 NCAC 40 .0113  
Adopt\*

### **VETERINARY MEDICAL BOARD**

The rules in Chapter 66 are from the Veterinary Medical Board including statutory and administrative provisions (.0100); practice of veterinary medicine (.0200); examination and licensing procedures (.0300); rules petitions hearings (.0400); declaratory rulings (.0500); administrative hearings procedures (.0600); administrative hearings decisions related rights (.0700) and judicial review (.0800).

Petition for Inactive Status  
Amend\*

21 NCAC 66 .0309

**ADMINISTRATIVE HEARINGS, OFFICE OF**

The rules in Chapter 3 are from the Hearings Division and cover procedure (.0100); mediated settlement conferences (.0200); simplified procedures for medicaid applicant and recipient appeals (.0400); and electronic filing (.0500).

General  
Amend\*

26 NCAC 03 .0502

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**CONTESTED CASE DECISIONS**

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*This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncioah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: [oah.clerks@oah.nc.gov](mailto:oah.clerks@oah.nc.gov) or phone 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  
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
				<b>Published</b>			
20	CPS	03686	12/15/2020	Travis E Downing	v.	NC Department of Public Safety Victim Services	Malherbe
20	DAG	01477	12/21/2020	Valley Proteins Inc.	v.	NC Department of Agriculture & Consumer Services	May
20	DHR	01132	12/29/2020	LaToya Thurston-Griggs	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Mann
19	DOJ	05333	12/8/2020	Lake Royale Company Police Department Gabriel Anthony Fanara	v.	North Carolina Department of Justice, Company Police Program	Lassiter
19	DOJ	06899	12/1/2020	Gene C Norris II	v.	North Carolina Department of Justice Criminal Standards Division	Lassiter
20	DOJ	00152	12/11/2020	Benjamin Louis Zucker	v.	NC Criminal Justice Education and Training Standards Commission	Ward
20	DOJ	00153	12/3/2020; 12/10/2020	Za'Mi Ya'Quawn Mcduffie	v.	North Carolina Criminal Justice Education and Training Standards Commission	Ward
20	DST	01914	12/2/2020	Kimberly Willis Beneficiary of Thomas Clayton Willis II	v.	NC Department of State Treasurer, Retirement Systems Division	Lassiter
20	DST	03395	12/10/2020	Arthur Edwards	v.	NC Retirement Systems Division	Lassiter

**CONTESTED CASE DECISIONS**

20	ELS	00859	12/23/2020	NC Board of Examiners for Engineers and Surveyors	v.	William J Payer	Bawtinhimer
20	OSP	02154	12/23/2020	Cecil John Russell	v.	North Carolina Department of Public Safety	Lassiter
19	SOS	06543	12/4/2020	Tonya Maggio	v.	North Carolina Department of the Secretary of State	Jacobs
				<b><u>Unpublished</u></b>			
20	CSE	01495	12/10/2020	Cody Matthew Brawner	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
20	CSE	03221	12/16/2020	Michael Timmons	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
20	CSE	04076	12/22/2020	Eric Jackson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
20	CSE	04078	12/22/2020	Eric Jackson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
20	DHR	04046	12/10/2020	Multicultural Resources Center NC James W McGrady Jr.	v.	Office of Administrative Hearings	Byrne
20	DHR	04228	12/3/2020	Mahmoud Atieh	v.	Nutrition Service WIC vender	Bawtinhimer
20	DOJ	03803	12/16/2020	April Latoya Bowden	v.	NC Criminal Justice Education and Training Standards Commission	May
20	EHR	02793	12/4/2020	Regent Manor Apartments LLC John Nathan Tabor manager	v.	North Carolina Department of Environmental Quality Michael S Regan Secretary	May
20	OSP	02923	12/4/2020	Jonathan Randall Kuhn	v.	Beaufort Community College	Lassiter
20	OSP	03118	12/11/2020	Mary Cunningham	v.	DHHS	Byrne
20	OSP	03596	12/16/2020	Dr Melody S Isaak	v.	North Carolina Department of Environmental Quality	Bawtinhimer