

NORTH CAROLINA REGISTER

VOLUME 36 • ISSUE 02 • Pages 72 – 148

July 15, 2021

I. EXECUTIVE ORDERS	
Executive Order No. 218-221	72 – 93
II. PROPOSED RULES	
Health and Human Services, Department of	
HHS - Division of Health Service Regulation	94 – 108
Environmental Quality, Department of	
Department	108 – 112
Transportation, Department of	
Motor Vehicles, Division of	112 – 113
Occupational Licensing Boards and Commissions	
Landscape Architects, Board of	113 – 119
State Human Resources, Office of	
State Human Resources Commission	119 – 121
III. TEMPORARY RULES	
Environmental Quality, Department of	
Wildlife Resources Commission	122 – 137
IV. RULES REVIEW COMMISSION	138 – 144
V. CONTESTED CASE DECISIONS	
Index to ALJ Decisions	145 – 148

PUBLISHED BY

*The Office of Administrative Hearings
Rules Division
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone 984-236-1850
Fax 984-236-1947*

*Donald R. van der Vaart, Director
Ashley B. Snyder, Codifier of Rules
Dana McGhee, Publications Coordinator
Lindsay Silvester, Editorial Assistant
Cathy Matthews-Thayer, Editorial Assistant*

Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: Ashley B. Snyder, Codifier of Rules

ashley.snyder@oah.nc.gov

984-236-1941

Dana McGhee, Publications Coordinator

dana.mcghee@oah.nc.gov

984-236-1937

Lindsay Silvester, Editorial Assistant

lindsay.silvester@oah.nc.gov

984-236-1938

Cathy Matthews-Thayer, Editorial Assistant

cathy.thayer@oah.nc.gov

984-236-1901

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road

Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: Amber Cronk May, Commission Counsel

amber.may@oah.nc.gov

984-236-1936

Amanda Reeder, Commission Counsel

amanda.reeder@oah.nc.gov

984-236-1939

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

984-236-1940

Julie Brincefield, Administrative Assistant

julie.brincefield@oah.nc.gov

984-236-1935

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Carrie Hollis, Economic Analyst

osbmruleanalysis@osbm.nc.gov

984-236-0689

NC Association of County Commissioners

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Amy Bason

919-715-2893

amy.bason@ncacc.org

NC League of Municipalities

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Monica Jackson

919-715-2925

mjackson@ncml.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building

300 North Salisbury Street

Raleigh, North Carolina 27611

919-733-2578

919-715-5460 FAX

Jason Moran-Bates, Staff Attorney

Jeremy Ray, Staff Attorney

NORTH CAROLINA REGISTER
Publication Schedule for January 2021 – December 2021

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
35:13	01/04/21	12/08/20	01/19/21	03/05/21	03/22/21	04/15/21	05/01/21	10/01/21
35:14	01/15/21	12/21/20	01/30/21	03/16/21	03/22/21	04/15/21	05/01/21	10/12/21
35:15	02/01/21	01/08/21	02/16/21	04/05/21	04/20/21	05/20/21	06/01/21	10/29/21
35:16	02/15/21	01/25/21	03/02/21	04/16/21	04/20/21	05/20/21	06/01/21	11/12/21
35:17	03/01/21	02/08/21	03/16/21	04/30/21	05/20/21	06/17/21	07/01/21	11/26/21
35:18	03/15/21	02/22/21	03/30/21	05/14/21	05/20/21	06/17/21	07/01/21	12/10/21
35:19	04/01/21	03/11/21	04/16/21	06/01/21	06/21/21	07/15/21	08/01/21	12/27/21
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
36:10	11/15/21	10/22/21	11/30/21	01/14/22	01/20/22	02/17/22	03/01/22	08/12/22
36:11	12/01/21	11/05/21	12/16/21	01/31/22	02/21/22	03/17/22	04/01/22	08/28/22
36:12	12/15/21	11/22/21	12/30/21	02/14/22	02/21/22	03/17/22	04/01/22	09/11/22

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

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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



State of North Carolina

ROY COOPER
GOVERNOR

June 9, 2021

EXECUTIVE ORDER NO. 218

ADVANCING NORTH CAROLINA'S ECONOMIC AND CLEAN ENERGY FUTURE WITH OFFSHORE WIND

WHEREAS, clean energy resources create North Carolina jobs, grow our economy, and help reduce climate change pollution; and

WHEREAS, North Carolina is a national leader in clean energy through its robust clean energy workforce, third-in-the-nation ranking in installed solar capacity, and position having the highest technical potential for offshore wind power on the east coast of the United States; and

WHEREAS, Exec. Order No. 80, 33 N.C. Reg. 1103-1106 (December 3, 2018), which was issued on October 29, 2018, ("North Carolina's Commitment to Address Climate Change and Transition to a Clean Energy Economy") calls for North Carolina to transition to a clean energy economy and reduce greenhouse gas emissions, and the North Carolina Clean Energy Plan identifies offshore wind as a strategic resource in the state's clean energy future; and

WHEREAS, offshore wind development along the U.S. Atlantic Coast and its accompanying supply chain present a significant economic opportunity for North Carolina, with an estimated 85,000 new jobs and \$140 billion in capital expenditure along the Atlantic Coast by 2035; and

WHEREAS, North Carolina has a highly favorable business environment for offshore wind manufacturers and supply chain companies through its large skilled labor force, strong community college system, innovative technology clusters, major research and development facilities and universities, top-ranked business climate, and targeted industry support; and

WHEREAS, responsible offshore wind energy development can coexist with North Carolina's military installations, which are critical for national defense, provide approximately 600,000 jobs, and contribute approximately \$70 billion annually to North Carolina's economy and the leadership of this state, including the undersigned, would not jeopardize these important military installations; and

WHEREAS, North Carolina is committed to advancing the development of offshore wind and the accompanying supply chain through regional partnerships such as the Southeast and Mid-Atlantic Regional Transformative Partnerships for Offshore Wind Energy Resources ("SMART-POWER").

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. Offshore Wind Procurement Targets.

The State of North Carolina will strive for development of 2.8 gigawatts ("GW") of offshore wind energy resources off the North Carolina coast by 2030 and 8.0 GW by 2040.

Section 2. Clean Energy Economic Development Coordinator.

The Secretary of the North Carolina Department of Commerce (“the Secretary”) shall designate a clean energy economic development coordinator (“the Coordinator”) to secure the economic and workforce opportunities clean energy, including offshore wind, can provide North Carolina. The Coordinator shall:

- A. Identify and analyze North Carolina’s economic and workforce opportunities and challenges presented by the transition to a clean energy economy.
- B. Develop and implement policies and programs that capture strategic opportunities for North Carolina’s workforce and businesses to thrive in a clean energy economy.
- C. Coordinate with divisions of the North Carolina Department of Commerce (“Commerce”), state agencies, local governments, businesses, community colleges, military leaders, SMART-POWER states and other partners to maximize North Carolina’s economic opportunities as the state transitions to a clean energy economy.
- D. Lead Commerce’s efforts to develop the state’s offshore wind supply chain, workforce and infrastructure.

Section 3. North Carolina Taskforce for Offshore Wind Economic Resource Strategies.

- A. The Secretary shall establish the N.C. Taskforce for Offshore Wind Economic Resource Strategies (“NC TOWERS” or “the Taskforce”) to provide expert advice for advancing North Carolina offshore wind energy projects, economic development and job creation. The Secretary or the Secretary’s designee shall serve as chair of the Taskforce and convene the Taskforce at least quarterly.
- B. The Taskforce may (1) advise on programs and policies for developing offshore wind energy projects, enhancing North Carolina’s supply chain and economic benefits, creating workforce solutions and establishing strategic partnerships; (2) foster industry relationships throughout the offshore wind supply chain; (3) advance opportunities for equitable access, particularly in underserved communities, to the economic benefits created by the offshore wind industry; (4) connect offshore wind-related economic and technology research capacity at North Carolina institutions of higher learning with the needs of the offshore wind industry and policy makers, and (5) undertake other offshore wind-related activities at the Secretary’s discretion.
- C. Taskforce membership shall include a mix of individuals who represent a variety of perspectives, including state and local government, offshore wind industry, economic development, workforce, military, higher education, environmental protection, equity and justice, marine industry, and tourism. The Taskforce shall submit a report annually to the Governor and General Assembly that summarizes the status of North Carolina’s offshore wind energy development activities and recommends policies, programs and other activities to advance offshore wind-related projects, supply chain development and other economic opportunities.

Section 4. Additional Offshore Wind Energy Development off the North Carolina Coast.

The Secretary of the North Carolina Department of Environmental Quality (“NCDEQ”) shall take the following actions to support responsible development of offshore wind energy projects in the Outer Continental Shelf off the North Carolina coast consistent with the targets established in Section 1 of this Executive Order:

- A. Designate an offshore wind coordinator to lead NCDEQ’s offshore wind-related activities, interface with state cabinet agencies, and support implementation of SMART-POWER.
- B. Coordinate efforts with Commerce to ensure alignment and synergy between offshore wind development and economic development efforts within the state.

- C. Collaborate with the U.S. Bureau of Ocean Energy Management (“BOEM”) and other federal partners to advance the leasing and development of North Carolina’s existing Wind Energy Areas.
- D. Work with the federal government and other partners to identify and lease new areas for offshore wind energy development through BOEM’s established deconfliction process, the U.S. Department of Defense Military Aviation and Installation Assurance Siting Clearinghouse, and other mechanisms that address potential competing ocean uses, such as military operations and readiness, shipping lanes, habitat and migratory patterns, fishing and visibility.
- E. Review, clarify and streamline regulatory and permitting requirements, as appropriate, that are applicable to offshore wind energy development, related onshore infrastructure and attendant offshore wind energy-related activities.

Section 5. Offshore Wind Coordinator for Military Affairs.

The Secretary of the North Carolina Department of Military and Veterans Affairs shall designate an offshore wind coordinator to serve as the State’s offshore wind liaison to North Carolina’s military installations, help ensure offshore wind energy projects do not interfere with the ability of North Carolina’s military installations to provide for the national defense, and coordinate with Commerce, NCDEQ, and others on issues related to military and veteran affairs. The North Carolina Military Affairs Commission is encouraged to support the development of offshore wind energy projects off the North Carolina coast in a manner consistent with the state’s strong economic health and the long-term vitality of North Carolina’s military installations and communities.

Section 6. North Carolina Offshore Wind Interagency Workgroup.

The North Carolina Governor’s Office shall continue to convene the Offshore Wind Interagency Workgroup (“the Workgroup”) at least quarterly to coordinate state cabinet agencies on cross-cutting issues. The Workgroup shall include senior officials from Commerce, NCDEQ, North Carolina Department of Military and Veterans Affairs, North Carolina Department of Transportation and any other relevant cabinet agency or state-affiliated entity identified by the Governor’s Office.

Section 7. Effective Date.

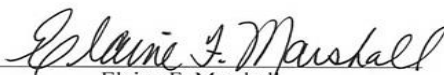
This Executive Order is effective immediately and shall remain in effect until December 31, 2024. This Executive Order supersedes and replaces all other Executive Orders and directives on this subject.

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 9th day of June 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

June 10, 2021

EXECUTIVE ORDER NO. 219

**ESTABLISHING AN INCENTIVE PROGRAM TO ENCOURAGE VACCINATION
AGAINST COVID-19**

WHEREAS, on March 10, 2020, the undersigned issued Exec. Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), 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, 188-193, 195, 197-198, 200, 204-207, 209-212, and 215-217; 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 accelerate statewide vaccination efforts; and

WHEREAS, vaccination is currently the most important tool in combating this deadly pandemic, and the undersigned desires to reinforce the importance of vaccination through the creation of a vaccination incentive program, as detailed herein (the "Promotion"); and

Importance of Vaccination against COVID-19

WHEREAS, rigorous clinical trials and studies of vaccines after Food and Drug Administration Authorization have demonstrated that the authorized COVID-19 vaccinations are safe and effective, and that the known and potential benefits of the approved COVID-19 vaccines outweigh the known and potential harms of contracting the COVID-19 virus; and

WHEREAS, COVID-19 vaccines are free to all North Carolinians, regardless of insurance status; and

WHEREAS, North Carolinians have made great progress in getting vaccinated, and every day, more North Carolinians are protected from COVID-19 infections, hospitalizations, and deaths; and

WHEREAS, specifically, as of the date of this Executive Order, fifty percent (50%) of the state's population over age eighteen (18) is fully vaccinated, and fifty-four percent (54%) of the state's population over age eighteen (18) is partially vaccinated; and

WHEREAS, as of the date of this Executive Order, seventy-eight percent (78%) of the state's population age sixty-five (65) and older is fully vaccinated, and eighty-one percent (81%) of the state's population age sixty-five (65) and older is partially vaccinated; and

WHEREAS, the state's public health experts have advised that more progress on vaccination against COVID-19 is still needed in order to obtain levels of immunity necessary to protect the public health of all North Carolinians; and

WHEREAS, the sooner more North Carolinians can get vaccinated against COVID-19, the sooner they can more safely return to pre-pandemic activities with their friends, family, and neighbors; and

WHEREAS, the state's public health experts have advised that programs to encourage vaccination will be particularly helpful in reducing burdens on providers in rural areas associated with diagnosis and treatment of COVID-19 because the percentage of individuals who have been vaccinated against COVID-19 in rural areas is significantly lower than in urban areas; and

WHEREAS, the state's public health experts have advised that increasing vaccination rates will advance local health departments' mission of vaccinating as many eligible North Carolinians as possible and will reduce burdens on local health departments by decreasing COVID-19 morbidity and mortality and thereby reducing the need for local health departments to perform COVID-19 testing and tracing services; and

Establishing the Promotion

WHEREAS, behavioral scientists indicate that individuals can be motivated to get vaccinated against COVID-19 by the chance to win monetary prizes, and experience from other states which have established vaccination incentive programs demonstrate a rise in vaccination rates following the announcement of such incentive programs; and

WHEREAS, specifically, data from Ohio indicates that Ohio experienced at least a twenty-eight (28%) increase in vaccination rates among Ohioans age sixteen (16) and older the week after announcing the "Vax-A-Million" incentive program, after experiencing weeks of declining vaccination rates; and

WHEREAS, accordingly, in an effort to incentivize more North Carolinians to obtain the COVID-19 vaccine, the undersigned hereby delegates the authority and directs the Department of Health and Human Services ("DHHS"), the North Carolina State Lottery Director ("NCEL"), and the North Carolina State Education Assistance Authority ("NCSEAA") to establish and operate an incentive program whereby residents of North Carolina who have received their first shot in a one or two-dose vaccine series against the COVID-19 virus can be entered into a randomized drawing, with a chance to win one of four prizes in the amount of one million dollars (\$1,000,000) each, or a chance to win one of four scholarships at an institution of post-secondary education in the amount of one hundred and twenty-five thousand dollars (\$125,000) each; and

WHEREAS, NCEL has the technical and operational expertise to help conduct the Promotion in accordance with its standard practices, and while ensuring the integrity of the process and security of individuals' data; and

WHEREAS, NCSEAA, in partnership with the College Foundation, Inc. (the “College Foundation”), has the technical and operational expertise to award and manage the scholarship accounts for scholarship prize winners and to assist in the transfer of the account to scholarship prize winners when they reach the age of twenty-five (25); and

WHEREAS, the prizes for the Promotion and any associated expenses with operating the Promotion shall be funded by the Coronavirus Relief Fund; and

WHEREAS, the federal administration and the United States Department of Treasury have encouraged the use of federal coronavirus relief funds for vaccination incentive programs such as the Promotion, and the federal administration has pledged to fund states’ efforts to incentivize vaccination; and

WHEREAS, the funding for the Promotion has been allocated to the state, and appropriated for use by the North Carolina General Assembly, for certain purposes which include the Promotion; and

WHEREAS, the Promotion will assist local health departments in accomplishing their mission of vaccinating the greatest number of North Carolinians possible; and

WHEREAS, by increasing the number of North Carolinians vaccinated against COVID-19, the Promotion will reduce costs to local health departments and local hospitals who must care for individuals who become ill from COVID-19; and

WHEREAS, the funds allocated to the Promotion will not reduce the amount of the state’s contribution to education or other state programs; and

WHEREAS, neither the state’s establishment or operation of, nor an individual’s participation in, the Promotion constitutes “gambling” or any other related activities that are prohibited by Article 37 of Chapter 14 of the North Carolina General Statutes; and

WHEREAS, the Promotion does not constitute a “lottery,” as defined by N.C. Gen. Stat. § 18C-103 and the Promotion is not subject to the State Lottery Act; and

WHEREAS, the undersigned respects individual choice as to whether or not to participate in the Promotion, and, accordingly, Promotion prize winners will be given the opportunity to decline the prize; and

WHEREAS, the Promotion will be operated in accordance with official rules established by NCEL in consultation with DHHS (“Rules”); 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-19.30(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, 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, N.C. Gen. Stat. § 166A-19.10(b)(4) gives the undersigned the authority to “cooperate and coordinate” with the President of the United States and the heads of the

departments and agencies of the federal government, and with other appropriate federal officers and agencies; 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 departments, offices, and agencies of the state in response to the emergency, 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, the undersigned has obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30 on those provisions of this Executive Order requiring concurrence.

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, **IT IS ORDERED**:

Section 1. Establishing the Promotion.

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

1.1 **Delegation of Authority.** To meet the goal of vaccinating North Carolinians against COVID-19, thereby saving lives in this pandemic, the undersigned delegates the authority and directs DHHS, NCEL, and NCSEAA to establish and operate a vaccination incentive program for eligible North Carolinians, which shall, at a minimum, provide for the following:

- a. **Conditions on Eligibility; Prizes.** Subject to Section 1.1(c)-(d); (i) any North Carolina resident eighteen (18) years or older who has received at least one dose of a one or two-dose COVID-19 vaccination series at a vaccination location in the state of North Carolina will be automatically entered to win one of four prizes in the amount of one million dollars (\$1,000,000) each, for a grand total of four million dollars (\$4,000,000) (each, a "Cash Prize") and (ii) North Carolina residents twelve (12) years to seventeen (17) years old who have received at least one dose of a one or two-dose COVID-19 vaccination series at a vaccination location in the state of North Carolina will be automatically entered for the chance to win one of four scholarship prizes, worth one hundred and twenty-five thousand dollars (\$125,000) each, for use towards expenses at an institution of post-secondary education that are permitted under a 529 tax-advantaged scholarship account, for a total of five hundred thousand dollars (\$500,000) in scholarship funding (each, a "Scholarship Prize").
- b. **Individuals Vaccinated on or after the Day of the Announcement of the Promotion will Receive Two (2) Entries.** In order to incentivize individuals who have not yet been vaccinated against COVID-19 to do so, individuals who receive their first shot in a one or two-dose series on or after June 10, 2021, will be given two (2) entries into the drawing, which will increase their odds of winning a Cash Prize or Scholarship Prize. Individuals who have completed their vaccination series or who have received their first shot prior to June 10, 2021, will receive one (1) entry.
- c. **Exclusions from Eligibility for the Promotion, Generally.** The following individuals are excluded from participation in the Promotion:
 1. Individuals who do not meet the criteria for eligibility in Section 1.1(a).
 2. Those individuals who have received their COVID-19 vaccinations at locations operated by the Department of Defense, Veterans Administration, and Indian Health Services, as the state does not have access to data from these

federal vaccination registries. DHHS is working to make these individuals eligible for entry, but if, at the time of the drawing for prizes, DHHS does not have access to a person's vaccination data from the above-referenced or other locations, that person will be ineligible for that drawing.

- d. Other Ineligible Individuals. The following individuals are prohibited from claiming a Cash Prize or Scholarship Prize in the Promotion:

1. The Governor and his immediate family members.
2. All members of the North Carolina Council of State and their immediate family members.
3. The Secretary of DHHS, and her immediate family members.
4. All employees and independent contractors of the Office of the Secretary of DHHS and their immediate family members.
5. All commissioners of the North Carolina State Lottery Commission and their immediate family members.
6. Any employee, independent contractor or employee of the NCEL who has access to the random number generator used for the drawings and their immediate family members.
7. Any incarcerated offender in custody serving an active felony sentence in a federal or state correctional institution.
8. Those employees who assisted in the creation of the Promotion at the NCEL, DHHS, the North Carolina Department of Justice, the Department of Information and Technology, and the Governor's Office, and their immediate family members.
9. Any employee or independent contractor of DHHS or employee or independent contractor of a third-party vendor of DHHS who has access to the COVID-19 Vaccine Management System, and their immediate family members.
10. Any member of the Eastern Band of Cherokee Indians ("ECBI") who has access to the vaccination database for the ECBI.
11. The independent auditor certifying the drawings.
12. Any other individual rendered ineligible under the Rules governing the Promotion.

In addition, those employees who assisted in the creation of the Promotion at NCSEAA and College Foundation, and their immediate family members, are ineligible to claim a Cash Prize and all employees of NCSEAA and College Foundation, and their immediate family members are ineligible to claim a Scholarship Prize in this Promotion.

For purposes of this Promotion, "immediate family members" means any family members living in the same household, and in addition, spouses, domestic partners, children (including, without limitation, step-children), and parents (including, without limitation, step-parents).

1.2. Operation of the Promotion is Subject to Rules; Rules Incorporated by Reference.

- a. Rules Available Here. The Promotion shall be operated in accordance with Rules, available here: <https://ncлотtery.com/promo/Summer-Vax-Cash-Rules>. The Rules are hereby incorporated by reference into this Executive Order, to the extent not inconsistent with this Executive Order.

- b. Rules Control. In the event of a conflict between this Executive Order and the Rules, as the rules may be amended, the Rules will control.

1.3. The Promotion Does Not Constitute Gambling. Neither the state's establishment or operation of, nor an individual's participation in, the Promotion constitutes "gambling" or any other related activities that are prohibited by Article 37 of Chapter 14 of the North Carolina General Statutes.

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, commissions, 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. Effective Date.

This Executive Order is effective immediately. This Executive Order shall remain in effect through August 16, 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 10th day of June 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

June 11, 2021

EXECUTIVE ORDER NO. 220

EXTENSION OF COVID-19 MEASURES TO REFLECT PUBLIC HEALTH RECOMMENDATIONS

WHEREAS, on March 10, 2020, the undersigned issued Exec. Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), 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, on February 24, 2021, the President of the United States issued notice that the national emergency relating to COVID-19 must remain in effect because the pandemic "continues to cause significant risk to the public health and safety of the Nation"; 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, 188-193, 195, 197-198, 200, 204-207, 209-212, 215-217 and 219; and

WHEREAS, a State of Emergency remains in place for the purpose of maintaining the state's ability to meet challenges presented by COVID-19 and allows the state to receive federal funding; provide the North Carolina Department of Health and Human Services ("NCDHHS") and health care facilities with increased regulatory flexibility allowing health care providers to expand their capacity and assist with vaccination efforts; create a pathway for continued Face Covering requirements in certain high risk settings; and allow the state to actively be ready in case there is a spike in the disease among the non-vaccinated population; 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

Improvements in Key COVID-19 Metrics

WHEREAS, over recent months 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 improvements in the state's key COVID-19 metrics; and

WHEREAS, specifically, as of the date of this Executive Order, the state is experiencing lower rates of the percent of emergency department visits that are due to COVID-like illness, the number of COVID-19 daily diagnoses, the percent of total COVID-19 tests that are positive, and the number of COVID-19-associated hospitalizations; and

WHEREAS, these improvements are occurring across North Carolina communities, as evidenced by the fact that between May 23, 2021 and June 5, 2021, no counties in the state are rated to have a "critical" rate of COVID-19 community spread, according to the County Alert System developed by NCDHHS, which evaluates a county's COVID-19 case counts, percent positives, and hospital occupancy; and

Progress in COVID-19 Vaccination

WHEREAS, COVID-19 vaccines are now widely available at no cost to all eligible North Carolinians who wish to receive one, and all eligible North Carolinians are encouraged to get vaccinated; and

WHEREAS, the state has mounted a robust vaccination effort to distribute the state's allocated supply of COVID-19 vaccines authorized by the Food and Drug Administration ("FDA") to all people living in or spending significant time in North Carolina; and

WHEREAS, North Carolinians have made great progress in getting vaccinated, and every day, more North Carolinians are protected from this deadly disease; and

WHEREAS, as of the date of this Executive Order, fifty percent (50%) of the state's population over age eighteen (18) is fully vaccinated, and fifty-four percent (54%) of the state's population over age eighteen (18) is at least partially vaccinated; and

WHEREAS, as of the date of this Executive Order, over seventy-eight percent (78%) of the state's population age sixty-five (65) and older is fully vaccinated, and over eighty-one percent (81%) of the state's population age sixty-five (65) and older is partially vaccinated; and

Public Health Guidance for Fully Vaccinated People

WHEREAS, over the course of the pandemic, North Carolina's public health experts have gained enhanced knowledge of the COVID-19 virus, including a better understanding of what settings and activities pose the greatest risk of transmitting the virus, and what mitigation strategies are most effective to curb spread; and

WHEREAS, on May 13, 2021, the U.S. Centers for Disease Control and Prevention ("CDC") issued new Interim Public Health Recommendations for Fully Vaccinated People; and

WHEREAS, the CDC recommendations advise that currently authorized vaccines in the United States are highly effective at protecting vaccinated people against symptomatic and severe COVID-19; and

WHEREAS, the CDC recommendations advise that a growing body of evidence suggests that fully vaccinated people are less likely to transmit COVID-19 to others; and

WHEREAS, based on this evidence, the CDC recommendations advise that "[i]ndoor and outdoor activities pose minimal risk to fully vaccinated people," and that in most settings, "fully vaccinated people can resume activities without wearing face coverings or physically distancing"; and

WHEREAS, the CDC guidance indicates that the Face Covering requirement and social distancing requirements can be lifted for fully vaccinated people in most settings; and

WHEREAS, more than half of all North Carolinians have now received one vaccination dose, and North Carolina is on track to have more and more people be fully vaccinated and at low risk from this severe disease; and

WHEREAS, given current obstacles, distinguishing between vaccinated and unvaccinated North Carolinians raises enforcement concerns for law enforcement, businesses, and employers; and

WHEREAS, in Executive Order No. 215 the undersigned determined that the Face Covering requirement should be lifted in most settings, and the capacity restrictions and social distancing requirements should be lifted for all settings; and

WHEREAS, for the reasons stated herein, the undersigned determines it is reasonable and necessary to continue the measures of Executive Order No. 215, subject to the modifications herein; and

Continuing Dangers of COVID-19

WHEREAS, despite the recent improving trends, COVID-19 is a deadly and dangerous disease; and

WHEREAS, more than one million seven thousand six hundred ninety (1,007,690) people in North Carolina have had COVID-19, and more than thirteen thousand two hundred sixty (13,260) people in North Carolina have died from the disease; and

WHEREAS, the new CDC recommendations issued on May 13, 2021, confirm that unvaccinated people put themselves at great risk if they do not wear Face Coverings in recommended settings and do not socially distance; and

WHEREAS, for the reasons identified herein, the COVID-19 State of Emergency must continue, and this Executive Order extends the Face Covering requirements, capacity restrictions, and social distancing requirements modifications made in Executive Order No. 215; and

WHEREAS, it remains critical that North Carolinians exercise personal responsibility to protect themselves and their friends and neighbors from the spread of COVID-19, and the undersigned and the Secretary of the Department of Health and Human Services continue to identify Face Coverings, social distancing, and washing hands as best practices; and

WHEREAS, although a majority of adult North Carolinians have received at least one vaccination dose, vaccination efforts are just beginning for children; and

WHEREAS, children age twelve (12) to seventeen (17) may only receive a COVID-19 vaccine from one approved manufacturer, and children age eleven (11) and younger have not yet been approved to receive a COVID-19 vaccine; and

WHEREAS, the CDC Director has expressed concern about the number of adolescents who have required ICU treatment or mechanical ventilation due to COVID-19, with one study showing that nearly one-third of teenagers hospitalized with COVID-19 earlier this year required intensive care and five percent (5%) requiring ventilation; and

WHEREAS, it is necessary to continue some COVID-19 requirements in schools, child care, and day or overnight camps, since many children will be unvaccinated and able to spread COVID-19; and

WHEREAS, the CDC recommendations also suggest that in some settings where people congregate, including transportation and health care, people should continue to wear Face Coverings and socially distance; and

WHEREAS, if the state's COVID-19 case rate increases, if the state's vaccination rate slows, or if new evidence arises regarding the risks of COVID-19 and its variants, it may be necessary to reevaluate whether additional restrictions are necessary to reduce the risk of death and serious illness from COVID-19; 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(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)(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)(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, **IT IS ORDERED**:

Section 1. Introduction.

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

1.1. Definitions.

- a. “Face Covering” means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears and fits snugly against the side of a person’s face. A Face Covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Face Coverings are most effective when they fit snugly against a person’s face and have two (2) or more layers. This can be achieved by wearing a cloth Face Covering with two or more layers or by wearing one disposable mask underneath a cloth mask. A cloth Face Covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels. These Face Coverings are not intended for use by healthcare providers in the care of patients.

Based on recommendations from the CDC, face shields do not meet the requirements for Face Coverings.

- b. “Guest” means any attendee, customer, guest, member, patron, spectator, or other person lawfully on the property of another that does not own the property or work at the property.
- c. “Surgical Mask” means American Society for Testing and Materials (“ASTM”) Level 1, 2, or 3 approved procedural and surgical masks.

1.2. Exemptions.

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

1.3. Structure of This Executive Order.

Except where modified herein, this Executive Order extends the measures of Executive Order No. 215, which fully lifted the capacity limitations and social distancing requirements on businesses in Executive Order No. 209, and lifted the indoor Face Covering requirement on most businesses and operations. To control the spread of COVID-19 and protect lives during the State of Emergency, however, this Executive Order lists restrictions on the operations of certain business establishments and other places to or from which people may travel or at which they may congregate.

Businesses or operations within the scope of Sections 2 and 3 of this Executive Order are prohibited from operating unless they follow all applicable restrictions stated in these Sections. To the extent that Sections 2 or 3 reference restrictions in NCDHHS guidelines or toolkits, the Secretary of NCDHHS is delegated authority under N.C. Gen. Stat. § 166A-19.10(b)(3) to issue and amend those restrictions.

Section 2. Face Coverings.

In public school units, as defined by N.C. Gen. Stat. § 115C-5(7a), and non-public schools covered by Article 39 of Chapter 115C of the General Statutes, Face Coverings must be worn to the extent required by the StrongSchoolsNC Public Health Toolkit (K-12) (“Toolkit”), including any further amendments thereto, issued by the NCDHHS. As of the date of this Executive Order, the Toolkit currently requires Face Coverings indoors. Any future changes to the Face Covering requirement in schools would be issued through the Toolkit.

In addition, Face Coverings are also required in the settings listed in Section 3 of this Executive Order below. In all settings where Face Coverings apply, the exceptions listed in Sections 2.3 to 2.5 of Executive Order No. 209 apply. Otherwise, the Face Covering requirements in Executive Order No. 209 are rescinded.

Section 3. Restrictions on Certain Businesses and Operations.

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

3.1. Child Care Facilities.

- a. **Child Care Facilities May Open and May Serve All Children.** Child care facilities may open or reopen, and they may serve all children in North Carolina. All references to “covered children” in Executive Order Nos. 130 and 138 shall refer to all children.
- b. **Additional Health and Safety Requirements.** Operators of child care facilities must follow all applicable NCDHHS guidelines.
- c. **Relationship to Other Executive Orders.** Subsections 3.3(a) and (b) above completely replace Subsections 2(C) and 2(D) of Executive Order No. 130. Subsections 2(A)–(B) and 2(E)–(H) of Executive Order No. 130 and Section 3 of Executive Order No. 139 shall continue in effect as specified in Executive Order Nos. 152, 177, 193, 211, and any subsequent Executive Orders.

3.2. Children’s Day or Overnight Camps.

- a. **Requirements.** Operators of day camps and overnight camps must follow all applicable NCDHHS guidelines.

3.3. Health Care Settings.

- a. **Infection Prevention in Health Care Facilities.** All residents, workers, and visitors in health care settings including hospitals, outpatient healthcare settings, Long Term Care (“LTC”) Facilities, skilled nursing facilities (“SNF”), and intermediate care facilities for individuals with intellectual disabilities (“ICF/IID”), must follow the requirements in the CDC Healthcare Infection and Prevention Control Recommendations in Response to COVID-19 Vaccination, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-after-vaccination.html>.
- b. **Other Requirements.** Additional requirements in health care settings can be found in Executive Order Nos. 130 and 139 and in the Secretarial Orders issued under Executive Order Nos. 152, 165, 177, 193, 211, and any subsequent extensions thereof.

3.4. Transportation.

All workers and riders on public or private transportation regulated by the State of North Carolina, as well as all people in North Carolina airports, bus and train stations or stops,

must wear Face Coverings indoors at all times, unless an exception applies. This provision does not apply to people traveling in their personal vehicles, alone or with family or friends, but does apply to ride-shares, cabs, vans, and shuttles, even if the vehicles are privately owned. Guests may be removed from or denied entry to public transportation if they refuse to wear a Face Covering.

3.5 State and Local Correctional and Detention Facilities and Homeless Service Providers.

All persons indoors on-premises at state and local correctional and detention facilities must wear Face Coverings at all times, unless an exception applies. All workers of homeless service providers and clients of homeless service providers must wear Face Coverings indoors any time they are not in their room or on their bed mat in shared sleeping areas, unless an exception applies. A Face Covering is not required to be worn by an individual when sleeping alone on-site at a correctional or detention facility or a facility serving the homeless.

3.6 Private Businesses May Require Face Coverings.

Nothing in this Executive Order is intended to prohibit or discourage private businesses not covered by Sections 2 or 3 herein from requiring Face Coverings for their employees or Guests, unless an exception applies for that individual, or to prevent such businesses from enforcing any existing rights under the law to prohibit Guests from entering without Face Coverings.

Section 4. Recommendations for Large Venues.

It is strongly recommended that all individuals continue to wear Face Coverings in all large indoor seating facilities with a seating capacity of over five thousand (5,000) seats, unless an exception applies.

Section 5. Miscellaneous Provisions.

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

5.1.Statewide Standing Order for COVID-19 Testing. In order to further protect the public health by providing greater access to COVID-19 testing, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue any statewide standing order needed in her medical judgment that would allow individuals who meet NCDHHS criteria for testing to access and undergo testing for COVID-19, subject to the terms of the standing order. This standing order may continue for the duration of the State of Emergency.

5.2.School and Health Officials to Continue Efforts. NCDHHS, the North Carolina Department of Public Instruction, and the North Carolina State Board of Education are directed to continue to work together during this State of Emergency to maintain and implement measures to provide for the health, nutrition, safety, educational needs, and well-being of children being taught by remote learning.

5.3.Effect on Local Emergency Management Orders.

- a. **Most of the Restrictions in This Executive Order Are Minimum Requirements, And Local Governments Can Impose Greater Restrictions.** The undersigned recognizes that the impact of COVID-19 has been and will likely continue to be different in different parts of North Carolina. Over the course of the COVID-19 emergency in North Carolina, COVID-19 outbreaks have occurred, at different times, in urban and rural areas; in coastal areas, the piedmont, and the mountains; and in a variety of employment and living settings. As such, the undersigned acknowledges that counties and cities may deem it necessary to adopt ordinances and issue state of emergency declarations which impose restrictions or prohibitions to the extent authorized under North Carolina law, such as on the activity of people and businesses, to a greater degree than in this Executive Order. To that end, nothing herein, except where specifically stated below in this Subsection 5.3, is intended to limit or prohibit counties and cities in North Carolina from enacting ordinances and issuing state of emergency declarations which

impose greater restrictions or prohibitions to the extent authorized under North Carolina law.

- b. Local Restrictions Cannot Restrict State or Federal Government Operations. Notwithstanding Subsection 5.3(a) above, no county or city ordinance or declaration shall have the effect of restricting or prohibiting governmental operations of the State or the United States.
- c. Local Restrictions Cannot Prevent COVID-19 Testing. To ensure that COVID-19 testing is available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable testing, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 testing or would prevent or restrict businesses or operations from advertising COVID-19 testing services that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions, and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 testing sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.
- d. Local Restrictions Cannot Prevent COVID-19 Vaccine Administration. To ensure that COVID-19 vaccines are available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable service, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 vaccines or would prevent or restrict businesses or operations from advertising COVID-19 vaccines that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 vaccination sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.

5.4. Previous Executive Orders. Except for the exceptions to Sections 2.3 to 2.5 of Executive Order No. 209, which remain in place, this Executive Order amends, restates, and replaces Executive Order Nos. 141, 153, 162, 163, 169, 170, 176, 180, 181, 188, 189, 195, 204, 209, and 215 in full. The State of Emergency established in Executive Order No. 116 remains in effect, and no other Executive Orders are modified or rescinded by this Executive Order except as expressly stated herein.

Section 6. 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 7. 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 8. 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 9. Enforcement.

9.1. 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.

9.2. 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.

9.3. 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 10. Effective Date.

This Executive Order is effective June 11, 2021, at 5:00 pm. This Executive Order shall remain in effect through July 30, 2021, at 5:00 pm, 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 11th day of June 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

June 16, 2021

EXECUTIVE ORDER NO. 221

FURTHER EXTENDING PROCESSES TO EXPEDITE PAYMENT OF UNEMPLOYMENT INSURANCE CLAIMS

The COVID-19 Public Health Emergency

WHEREAS, on March 10, 2020, the undersigned issued Exec. Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), 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, 188-193, 195, 197-198, 200, 204-207, 209-212, 215-217, and 219-220; and

WHEREAS, despite the recent improving trends, COVID-19 is a deadly and dangerous disease; and

WHEREAS, more than one million nine thousand five hundred (1,009,500) people in North Carolina have had COVID-19, and more than thirteen thousand three hundred (13,300) people in North Carolina have died from the disease; and

WHEREAS, many North Carolinians have experienced loss or reduction in employment since the start of the pandemic; and

Expediting Processing of Unemployment Insurance Claims

WHEREAS, on March 17, 2020, with the concurrence of the Council of State, the undersigned issued Exec. Order No. 118, 34 N.C. Reg. 1834-1838 (April 15, 2020), which broadened unemployment insurance benefits availability in response to COVID-19; and

WHEREAS, from the period dating March 15, 2020 through June 11, 2021, the Division of Employment Security ("Division") has received over 3,704,124 claims claims; 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 who has a positive credit balance in its account, and ordinarily is available only for an employer which immediately pays the Division 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 Exec. Order No. 131, 34 N.C. Reg. 1960-1968 (April 15, 2020), 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, President Trump 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 issued Exec. Order No. 184, 35 N.C. Reg. 11622-1628 (December 30, 2020), 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, on January 27, 2021, the undersigned issued Executive Order No. 191, which extended Executive Order No. 184 through March 31, 2021; and

WHEREAS, on March 11, 2021 President Biden signed H.R. 1319 providing for the continuation of additional unemployment insurance benefits until September 4, 2021; and

WHEREAS, on April 28, 2021, the undersigned issued Executive Order No. 209, which extended Executive Order No. 191 through June 30, 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 and in order to continue expediting the

processing of unemployment insurance claims, the measures in Executive Order Nos. 184, 191 and 207 on expediting unemployment insurance claims shall be extended through and including July 31, 2021; 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-19.30(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

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. 184, 191, and 207 **IT IS ORDERED**:

Section 1. Extension of Section 2(D) of Executive Order No. 184 - Reinstating Processes to Expedite Payment of Unemployment Insurance Claims.

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 July 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 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 and Interpretation.

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. 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 June 16, 2021 and remain in effect through and including July 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 16th day of June in the year of our Lord two thousand and twenty-one.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the HHS - Division of Health Service Regulation intends to readopt with substantive changes the rules cited as 10A NCAC 14C .1601, .1603, .1701, .1703, .1901, .1903, .2401, .2701, .2703, .3701, .3703, readopt without substantive changes the rule cited as 10A NCAC 14C .2403, and repeal through readoption the rules cited as 10A NCAC 14C .2301, .2303, .2501, .2503, .2601, and .2603.

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

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

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

Proposed Effective Date: January 1, 2022

Public Hearing:

Date: August 31, 2021

Time: 10:00 a.m.

Location: By Webex. Participants may log in 15 minutes before meeting begins. To join the meeting by audio only or by audio and video: Copy this link to your browser (preferably Google Chrome):

<https://ncgov.webex.com/ncgov/onstage/g.php?MTID=ee186691c2ec542255615a59edf2f4214>.

Meeting password (case sensitive): rules. Access code: 161 511 9699.

To join the meeting by telephone audio only: Call telephone number: 415-655-0003; Access code: 161 511 9699

Reason for Proposed Action: Pursuant to GS 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years, or they shall expire. As a result of the periodic review of Subchapter 10A NCAC 14C, Certificate of Need Regulations, these 18 proposed rules for readoption were part of the 39 rules determined as "Necessary With Substantive Public Interest," requiring readoption. With input from stakeholders, substantive changes are being made to 11 of these proposed rules, non-substantive changes are being made to one

proposed rule, and six rules are proposed for readoption as a repeal.

Substantive changes have been made to definitions to revise and update terms that apply to CON application performance standards for cardiac catheterization equipment, open-heart surgery services and heart-lung bypass machines, linear accelerators, magnetic resonance imaging scanners, positron emission tomography scanners and intermediate care facilities for individuals with intellectual disabilities.

Substantive changes have been made to these proposed rules to revise, condense, clarify, and remove unnecessary text in the Certificate of Need applicant performance standards criteria for acquiring fixed, shared fixed, or mobile cardiac catheterization equipment, a fixed or mobile MRI (magnetic resonance imaging) scanner, a fixed or mobile PET (positron emission tomography), and a linear accelerator pursuant to a need determination in the State Medical Facilities Plan in effect as of the first day of the review period. The performance projections for proposed MRI scanner acquisition applicants has been lowered. Substantive changes have been made to revise, condense, clarify, and remove unnecessary text in the performance standards criteria for developing a new open-heart surgery service and acquiring a heart-lung bypass machine.

The six rules proposed for readoption as a repeal are no longer necessary because the Certificate of Need applicant performance standards are obsolete for CT (computed tomography) scanners, substance use disorder (chemical dependency treatment) beds, and psychiatric beds.

In addition, non-substantive and technical changes were made to the proposed rules. Non substantive changes include updating to ICF/IID terminology and removing references to State Medical Facilities Plan adjusted need determinations no longer relevant.

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

Comment period ends: September 13, 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.

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 14 - DIRECTOR, DIVISION OF HEALTH SERVICE REGULATION

SUBCHAPTER 14C – CERTIFICATE OF NEED REGULATIONS

SECTION .1600 – CRITERIA AND STANDARDS FOR CARDIAC CATHETERIZATION EQUIPMENT AND CARDIAC ANGIOPLASTY EQUIPMENT

10A NCAC 14C .1601 DEFINITIONS

The following definitions shall apply to all rules in this Section:

- (1) "Approved" means the equipment was not in operation prior to the beginning of the review period and had been issued a certificate of need.
- (2) "Capacity" of an item of cardiac catheterization equipment means 1500 diagnostic equivalent procedures per year. One therapeutic cardiac catheterization procedure is valued at 1.75 diagnostic equivalent procedures. One cardiac catheterization procedure performed on a patient age 14 or under is valued at two diagnostic equivalent procedures. All other procedures are valued at one diagnostic equivalent procedure.
- (3) "Cardiac catheterization equipment" shall have the same meaning as defined in G.S. 131E-176(2f).
- (4) "Cardiac catheterization procedure," for the purpose of determining utilization in a certificate of need review, means a single episode of diagnostic or therapeutic catheterization which occurs during one visit to a cardiac catheterization room, whereby a flexible tube is inserted into the patient's body and advanced into the heart chambers to perform a hemodynamic or angiographic examination or therapeutic intervention of the left or right heart chamber, or coronary arteries. A cardiac catheterization procedure does not include a simple right heart catheterization for monitoring purposes as might be done in an electrophysiology laboratory, pulmonary angiography procedure, cardiac pacing through

a right electrode catheter, temporary pacemaker insertion, or procedures performed in dedicated angiography or electrophysiology rooms.

(5) "Cardiac catheterization room" means a room or a mobile unit in which there is cardiac catheterization or cardiac angioplasty equipment for the performance of cardiac catheterization procedures. Dedicated angiography rooms and electrophysiology rooms are not cardiac catheterization rooms.

(6) "Cardiac catheterization service area" means a geographical area defined by the applicant, which has boundaries that are not farther than 90 road miles from the facility, if the facility has a comprehensive cardiac services program; and not farther than 45 road miles from the facility if the facility performs only diagnostic cardiac catheterization procedures; except that the cardiac catheterization service area of an academic medical center teaching hospital designated in 10A NCAC 14B shall not be limited to 90 road miles.

(7) "Cardiac catheterization services" means the provision of diagnostic cardiac catheterization procedures or therapeutic cardiac catheterization procedures performed utilizing cardiac catheterization equipment in a cardiac catheterization room.

(8) "Comprehensive cardiac services program" means a cardiac services program which provides the full range of clinical services associated with the treatment of cardiovascular disease including community outreach, emergency treatment of cardiovascular illnesses, non invasive diagnostic imaging modalities, diagnostic and therapeutic cardiac catheterization procedures, open heart surgery and cardiac rehabilitation services. Community outreach and cardiac rehabilitation services shall be provided by the applicant or through arrangements with other agencies and facilities located in the same city. All other components of a comprehensive cardiac services program shall be provided within a single facility.

(9) "Diagnostic cardiac catheterization procedure," for the purpose of determining utilization in a certificate of need review, means a cardiac catheterization procedure performed for the purpose of detecting and identifying defects or diseases in the coronary arteries or veins of the heart, or abnormalities in the heart structure, but not the pulmonary artery.

(10) "Electrophysiology procedure" means a diagnostic or therapeutic procedure performed to study the electrical conduction activity of the heart and characterization of atrial ventricular arrhythmias.

- | | |
|---|---|
| <p>(11) "Existing" means the equipment was in operation prior to the beginning of the review period.</p> <p>(12) "High risk patient" means a person with reduced life expectancy because of left main or multi-vessel coronary artery disease, often with impaired left ventricular function and with other characteristics as referenced in the American College of Cardiology/ Society for Cardiac Angiography and Interventions Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards (June 2001) report.</p> <p>(13) "Mobile equipment" means cardiac catheterization equipment and transporting equipment which is moved to provide services at two or more host facilities.</p> <p>(14) "Percutaneous transluminal coronary angioplasty (PTCA)" is one type of therapeutic cardiac catheterization procedure used to treat coronary artery disease in which a balloon-tipped catheter is placed in the diseased artery and then inflated to compress the plaque blocking the artery.</p> <p>(15) "Primary cardiac catheterization service area" means a geographical area defined by the applicant, which has boundaries that are not farther than 45 road miles from the facility, if the facility has a comprehensive cardiac services program; and not farther than 23 road miles from the facility if the facility performs only diagnostic cardiac catheterization procedures; except that the primary cardiac catheterization service area of an academic medical center teaching hospital designated in 10A NCAC 14B shall not be limited to 45 road miles.</p> <p>(16) "Therapeutic cardiac catheterization procedure," for the purpose of determining utilization in a certificate of need review, means a cardiac catheterization procedure performed for the purpose of treating or resolving anatomical or physiological conditions which have been determined to exist in the heart or coronary arteries or veins of the heart, but not the pulmonary artery.</p> | <p>(3) <u>"Cardiac catheterization equipment" shall have the same meaning as defined in G.S. 131E-176(2f).</u></p> <p>(4) <u>"Cardiac catheterization services" shall have the same meaning as defined in G.S. 131E-176(2g).</u></p> <p>(5) <u>"Diagnostic-equivalent cardiac catheterization procedures" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.</u></p> <p>(6) <u>"Existing cardiac catheterization equipment" means cardiac catheterization equipment that is being used to offer cardiac catheterization services as of the application deadline for the review period.</u></p> <p>(7) <u>"Fixed cardiac catheterization equipment" means cardiac catheterization equipment that is not mobile or shared fixed cardiac catheterization equipment.</u></p> <p>(8) <u>"Fixed cardiac catheterization equipment service area" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.</u></p> <p>(9) <u>"Host site" means the location where the mobile cardiac catheterization equipment provides cardiac catheterization services.</u></p> <p>(10) <u>"Mobile cardiac catheterization equipment" means cardiac catheterization equipment that is moved weekly to provide cardiac catheterization services at two or more host sites.</u></p> <p>(11) <u>"Mobile cardiac catheterization equipment service area" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.</u></p> <p>(12) <u>"Proposed cardiac catheterization equipment" means the cardiac catheterization equipment proposed in the certificate of need application.</u></p> <p>(13) <u>"Shared fixed cardiac catheterization equipment" means fixed cardiac catheterization equipment that is used to perform cardiac catheterization procedures and angiography procedures.</u></p> |
|---|---|

The following definitions shall apply to all rules in this Section:

- (1) "Angiography procedures" means procedures performed using cardiac catheterization equipment that are not cardiac catheterization services.
- (2) "Approved cardiac catheterization equipment" means cardiac catheterization equipment that was issued a certificate of need but is not being used to provide cardiac catheterization services as of the application deadline for the review period.

Authority G.S. 131E-177(1); ~~131E-183~~; 131E-183(b).

10A NCAC 14C .1603 PERFORMANCE STANDARDS

(a) ~~An applicant proposing to acquire cardiac catheterization equipment shall demonstrate that the project is capable of meeting the following standards:~~

- (1) ~~each proposed item of cardiac catheterization equipment, including mobile equipment but excluding shared fixed cardiac catheterization equipment, shall be utilized at an annual rate of at least 60 percent of capacity excluding procedures not defined as cardiac~~

- catheterization procedures in 10A NCAC 14C .1601(5), measured during the fourth quarter of the third year following completion of the project;
- (2) if the applicant proposes to perform therapeutic cardiac catheterization procedures, each of the applicant's therapeutic cardiac catheterization teams shall be performing at an annual rate of at least 100 therapeutic cardiac catheterization procedures, during the third year of operation following completion of the project;
- (3) if the applicant proposes to perform diagnostic cardiac catheterization procedures, each diagnostic cardiac catheterization team shall be performing at an annual rate of at least 200 diagnostic equivalent cardiac catheterization procedures by the end of the third year following completion of the project;
- (4) at least 50 percent of the projected cardiac catheterization procedures shall be performed on patients residing within the primary cardiac catheterization service area;
- (b) An applicant proposing to acquire mobile cardiac catheterization equipment shall:
- (1) demonstrate that each existing item of cardiac catheterization equipment, excluding mobile equipment, located in the proposed primary cardiac catheterization service area of each host facility shall have been operated at a level of at least 80 percent of capacity during the 12 month period reflected in the most recent licensure form on file with the Division of Health Service Regulation;
- (2) demonstrate that the utilization of each existing or approved item of cardiac catheterization equipment, excluding mobile equipment, located in the proposed primary cardiac catheterization service area of each host facility shall not be expected to fall below 60 percent of capacity due to the acquisition of the proposed mobile cardiac catheterization equipment;
- (3) demonstrate that each item of existing mobile equipment operating in the proposed primary cardiac catheterization service area of each host facility shall have been performing at least an average of four diagnostic equivalent cardiac catheterization procedures per day per site in the proposed cardiac catheterization service area in the 12 month period preceding the submittal of the application;
- (4) demonstrate that each item of existing or approved mobile equipment to be operating in the proposed primary cardiac catheterization service area of each host facility shall be performing at least an average of four diagnostic equivalent cardiac catheterization procedures per day per site in the proposed cardiac catheterization service area in the applicant's third year of operation; and
- (5) provide documentation of all assumptions and data used in the development of the projections required in this Rule.
- (c) An applicant proposing to acquire cardiac catheterization equipment excluding shared fixed and mobile cardiac catheterization shall:
- (1) demonstrate that its existing items of cardiac catheterization equipment, except mobile equipment, located in the proposed cardiac catheterization service area operated at an average of at least 80 percent of capacity during the twelve month period reflected in the most recent licensure renewal application form on file with the Division of Health Service Regulation;
- (2) demonstrate that its existing items of cardiac catheterization equipment, except mobile equipment, shall be utilized at an average annual rate of at least 60 percent of capacity, measured during the fourth quarter of the third year following completion of the project; and
- (3) provide documentation of all assumptions and data used in the development of the projections required in this Rule.
- (d) An applicant proposing to acquire shared fixed cardiac catheterization equipment as defined in the applicable State Medical Facilities Plan shall:
- (1) demonstrate that each proposed item of shared fixed cardiac catheterization equipment shall perform a combined total of at least 225 cardiac catheterization and angiography procedures during the fourth quarter of the third year following completion of the project; and
- (2) provide documentation of all assumptions and data used in the development of the projections required in this Rule.
- (e) If the applicant proposes to perform cardiac catheterization procedures on patients age 14 and under, the applicant shall demonstrate that it meets the following additional criteria:
- (1) the facility has the capability to perform diagnostic and therapeutic cardiac catheterization procedures and open heart surgery services on patients age 14 and under; and
- (2) the proposed project shall be performing at an annual rate of at least 100 cardiac catheterization procedures on patients age 14 or under during the fourth quarter of the third year following initiation of the proposed cardiac catheterization procedures for patients age 14 and under.
- (a) An applicant proposing to acquire fixed cardiac catheterization equipment pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:
- (1) identify the existing fixed cardiac catheterization equipment owned or operated by the applicant or a related entity and located

- in the proposed fixed cardiac catheterization equipment service area;
- (2) identify the approved fixed cardiac catheterization equipment owned or operated by the applicant or a related entity and located in the proposed fixed cardiac catheterization equipment service area;
 - (3) provide projected utilization of the cardiac catheterization equipment identified in Subparagraphs (a)(1) and (a)(2) of this Paragraph and the proposed fixed cardiac catheterization equipment during each of the first three full fiscal years of operation following completion of the project;
 - (4) provide the assumptions and methodology used to project the utilization required by Subparagraph (a)(3) of this Paragraph; and
 - (5) project that the cardiac catheterization equipment identified in Subparagraphs (a)(1) and (a)(2) of this Paragraph and the proposed fixed cardiac catheterization equipment shall perform 900 or more diagnostic-equivalent cardiac catheterization procedures per unit of cardiac catheterization equipment during the third full fiscal year of operation following completion of the project.

(b) An applicant proposing to acquire shared fixed cardiac catheterization equipment pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

- (1) provide projected utilization of the proposed shared fixed cardiac catheterization equipment during each of the first three full fiscal years of operation following completion of the project;
- (2) provide the assumptions and methodology used to project the utilization required by Subparagraph (b)(1) of this Paragraph; and
- (3) project that the proposed shared fixed cardiac catheterization equipment shall perform 225 or more diagnostic-equivalent cardiac catheterization and angiography procedures during the third full fiscal year of operation following completion of the project.

(c) An applicant proposing to acquire mobile cardiac catheterization equipment pursuant to a need determination in the State Medical Facilities Plan in effect as of the first day of the review period shall:

- (1) identify the existing mobile cardiac catheterization equipment owned or operated by the applicant or a related entity that provides cardiac catheterization services at host sites located in the proposed mobile cardiac catheterization equipment service area;
- (2) identify the approved mobile cardiac catheterization equipment owned or operated by the applicant or a related entity that will provide cardiac catheterization services at host sites located in the proposed mobile cardiac catheterization equipment service area;

- (3) provide projected utilization of the cardiac catheterization equipment identified in Subparagraphs (c)(1) and (c)(2) of this Paragraph and the proposed mobile cardiac catheterization equipment during each of the first three full fiscal years of operation following completion of the project;
- (4) provide the assumptions and methodology used to project the utilization required by Subparagraph (c)(3) of this Paragraph; and
- (5) project that the cardiac catheterization equipment identified in Subparagraphs (c)(1) and (c)(2) of this Paragraph and the proposed mobile cardiac catheterization equipment shall perform 225 or more diagnostic-equivalent cardiac catheterization procedures per unit of cardiac catheterization equipment during the third full fiscal year of operation following completion of the project.

Authority G.S. 131E-177(1); 131E-183(b).

SECTION .1700 - CRITERIA AND STANDARDS FOR OPEN-HEART SURGERY SERVICES AND HEART-LUNG BYPASS MACHINES

10A NCAC 14C .1701 DEFINITIONS

The following definitions apply to all rules in this Section:

- (1) ~~"Approved heart lung bypass machine" means a heart lung bypass machine that was not operational prior to the beginning of the review period.~~
- (2) ~~"Capacity" of a heart lung bypass machine means 400 adult equivalent open heart surgical procedures per year. One open heart surgical procedure on persons age 14 and under is valued at two adult open heart surgical procedures. For purposes of determining capacity, one open heart surgical procedure is defined to be one visit or trip by a patient to an operating room for an open heart operation.~~
- (3) ~~"Cardiac Surgical Intensive Care Unit" means an intensive care unit as defined in 10A NCAC 14C .1201(2) and that is for exclusive use by post surgical open heart patients.~~
- (4) ~~"Existing heart lung bypass machine" means a heart lung bypass machine in operation prior to the beginning of the review period.~~
- (5) ~~"Heart lung bypass machine" has the same meaning as defined in G.S. 131E-176(10a).~~
- (6) ~~"Open heart surgery services" has the same meaning as defined in G.S. 131E-176(18b).~~
- (7) ~~"Open heart surgical procedures" means specialized surgical procedures that:~~
 - (a) ~~utilize a heart lung bypass machine (the "pump"); and~~
 - (b) ~~are designed to correct congenital or acquired cardiac and coronary disease by opening the chest for surgery on the~~

~~heart muscle, valves, arteries, or other parts of the heart.~~

The following definitions shall apply to all rules in this Section:

- (1) "Approved heart-lung bypass machine" means a heart-lung bypass machine that was issued a certificate of need but is not being used as of the application deadline for the review period.
- (2) "Existing heart-lung bypass machine" means a heart-lung bypass machine that is being used as of the application deadline for the review period.
- (3) "Health service facility" shall have the same meaning as defined in G.S. 131E-176(9b).
- (4) "Heart-lung bypass machine" shall have the same meaning as defined in G.S. 131E-176(10a).
- (5) "Open-heart surgical procedure" means one visit by a patient to an operating room for open heart surgery services.
- (6) "Open-heart surgery services" shall have the same meaning as defined in G.S. 131E-176(18b).
- (7) "Proposed heart-lung bypass machine" means the heart-lung bypass machine proposed in the application under review.

Authority G.S. 131E-177(1); ~~131E-183~~; 131E-183(b).

10A NCAC 14C .1703 PERFORMANCE STANDARDS

~~(a) An applicant that proposes to develop open heart surgery services shall:~~

- ~~(1) demonstrate that the projected utilization and proposed staffing patterns are such that each open heart surgical team shall perform at least 150 open heart surgical procedures in the third year following completion of the project; and~~
- ~~(2) document the assumptions and provide data supporting the methodology used to make these projections.~~

~~(b) An applicant that proposes to acquire a heart lung bypass machine shall demonstrate either:~~

- ~~(1) that the applicant's projected annual utilization of its existing, approved, and proposed heart-lung bypass machines (other than a machine acquired pursuant to 10A NCAC 14C .1703(b)(3)) will be at least 200 open heart surgical procedures per machine during the third year following completion of the project;~~
- ~~(2) that the projected annual utilization of its existing, approved, and proposed heart lung bypass machines (other than a machine acquired pursuant to 10A NCAC 14C .1703(b)(3)), will be at least 900 hours per year during the third year following completion of the project, as measured in minutes used or staffed on standby for all procedures; or~~
- ~~(3) that the proposed machine is needed to provide coverage for open heart surgery emergencies and will not be scheduled for use at the same~~

~~time as the applicant's equipment used to support scheduled open heart surgical procedures.~~

~~(a) A health service facility that proposes to develop a new open-heart surgery service shall:~~

- ~~(1) provide the projected number of open-heart surgical procedures to be performed during each of the first three full fiscal years of operation following completion of the project;~~
- ~~(2) provide the assumptions and methodology used to project the utilization required by Subparagraph (a)(1) of this Paragraph; and~~
- ~~(3) project to perform 150 or more open-heart surgical procedures in the third full fiscal year of operation following completion of the project.~~

~~(b) A health service facility that proposes to acquire a heart-lung bypass machine, excluding a heart-lung bypass machine proposed to be acquired pursuant to Policy AC-6 in the annual State Medical Facilities Plan in effect as of the first day of the review period, shall:~~

- ~~(1) provide the number of existing heart-lung bypass machines owned or operated by the health service facility;~~
- ~~(2) provide the number of approved heart-lung bypass machines that will be owned or operated by the health service facility;~~
- ~~(3) provide projected utilization of the existing and approved heart-lung bypass machines identified in Subparagraphs (b)(1) and (b)(2) of this Paragraph and the proposed heart-lung bypass machine during each of the first three full fiscal years of operation following completion of the project;~~
- ~~(4) provide the assumptions and methodology used to project the utilization required by Subparagraph (b)(3) of this Paragraph; and~~
- ~~(5) project that the existing and approved heart-lung bypass machines identified in Subparagraphs (b)(1) and (b)(2) of this Paragraph and the proposed heart-lung bypass machine will be used during the third full fiscal year of operation following completion of the project:~~
 - ~~(A) to perform 200 or more open-heart surgical procedures per heart-lung bypass machine; or~~
 - ~~(B) for 900 hours or more per heart-lung bypass machine, including time in use and time spent on standby, for all types of procedures.~~

Authority G.S. 131E-177(1); ~~131E-183~~(b).

SECTION .1900 – CRITERIA AND STANDARDS FOR RADIATION THERAPY EQUIPMENT LINEAR ACCELERATORS

10A NCAC 14C .1901 DEFINITIONS

These definitions shall apply to all rules in this Section:

- (1) ~~"Approved linear accelerator" means a linear accelerator which was not operational prior to the beginning of the review period.~~
- (2) ~~"Complex Radiation treatment" is equal to 1.0 ESTV and means: treatment on three or more sites on the body; use of techniques such as tangential fields with wedges, rotational or are techniques; or use of custom blocking.~~
- (3) ~~"Equivalent Simple Treatment Visit [ESTV]" means one basic unit of radiation therapy which normally requires up to fifteen (15) minutes for the uncomplicated set up and treatment of a patient on a megavoltage teletherapy unit including the time necessary for portal filming.~~
- (4) ~~"Existing linear accelerator" means a linear accelerator in operation prior to the beginning of the review period.~~
- (5) ~~"Intermediate Radiation treatment" means treatment on two separate sites on the body, three or more fields to a single treatment site or use of multiple blocking and is equal to 1.0 ESTV.~~
- (6) ~~"Linear accelerator" shall have the same meaning as defined in G.S. 131E-176(14g).~~
- (7) ~~"Linear accelerator service area" means a single or multi county area as used in the development of the need determination in the applicable State Medical Facilities Plan.~~
- (8) ~~"Megavoltage unit" means MRT equipment which provides a form of teletherapy that involves the delivery of energy greater than, or equivalent to, one million volts by the emission of x rays, gamma rays, electrons, or other radiation.~~
- (9) ~~"Megavoltage radiation therapy (MRT)" means the use of ionizing radiation in excess of one million electron volts in the treatment of cancer.~~
- (10) ~~"MRT equipment" means a machine or energy source used to provide megavoltage radiation therapy including linear accelerators and other particle accelerators.~~
- (11) ~~"Radiation therapy equipment" means medical equipment which is used to provide radiation therapy services.~~
- (12) ~~"Radiation therapy services" means those services which involve the delivery of controlled and monitored doses of radiation to a defined volume of tumor bearing tissue within a patient. Radiation may be delivered to the tumor region by the use of radioactive implants or by beams of ionizing radiation or it may be delivered to the tumor region systemically.~~
- (13) ~~"Radiation therapy service area" means a single or multi county area as used in the development of the need determination in the applicable State Medical Facilities Plan.~~

- (14) ~~"Simple Radiation treatment" means treatment on a single site on the body, single treatment field or parallel opposed fields with no more than simple blocks and is equal to 1 ESTV.~~
- (15) ~~"Simulator" shall have the same meaning as defined in G.S. 131E-176(24b).~~
- (16) ~~"Special technique" means radiation therapy treatments that may require increased time for each patient visit including:~~
 - (a) ~~total body irradiation (photons or electrons) which equals 2.5 ESTVs;~~
 - (b) ~~hemi body irradiation which equals 2.0 ESTVs;~~
 - (c) ~~intraoperative radiation therapy which equals 10.0 ESTVs;~~
 - (d) ~~neutron and proton radiation therapy which equals 2.0 ESTVs;~~
 - (e) ~~intensity modulated radiation treatment (IMRT) which equals 1.0 ESTV;~~
 - (f) ~~limb salvage irradiation at lengthened SSD which equals 1.0 ESTV;~~
 - (g) ~~additional field check radiographs which equals .50 ESTV;~~
 - (h) ~~stereotactic radiosurgery treatment management with linear accelerator or gamma knife which equals 3.0 ESTVs; and~~
 - (i) ~~pediatric patient under anesthesia which equals 1.5 ESTVs.~~

The following definitions shall apply to all rules in this Section:

- (1) "Approved LINAC" means a linear accelerator (LINAC) that was issued a certificate of need but is not being used to provide services as of the application deadline for the review period.
- (2) "Equivalent Simple Treatment Visit (ESTV)" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.
- (3) "Existing LINAC" means a LINAC that is being used to provide services as of the application deadline for the review period.
- (4) "LINAC service area" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.
- (5) "Linear accelerator (LINAC)" shall have the same meaning as defined in G.S. 131E-176(14g).
- (6) "Proposed LINAC" means the LINAC proposed in the application under review.

Authority G.S. 131E-177(1); 131E-183(b).

10A NCAC 14C .1903 PERFORMANCE STANDARDS

- (a) ~~An applicant proposing to acquire a linear accelerator shall demonstrate that each of the following standards will be met:~~
 - (1) ~~an applicant's existing linear accelerators located in the proposed radiation therapy~~

~~service area performed at least 6,750 ESTV treatments per machine or served at least 250 patients per machine in the twelve months prior to the date the application was submitted;~~

- (2) ~~each proposed new linear accelerator will be utilized at an annual rate of 250 patients or 6,750 ESTV treatments during the third year of operation of the new equipment; and~~
- (3) ~~an applicant's existing linear accelerators located in the proposed radiation therapy service area are projected to be utilized at an annual rate of 6,750 ESTV treatments or 250 patients per machine during the third year of operation of the new equipment.~~

~~(b) A linear accelerator shall not be held to the standards in Paragraph (a) of this Rule if the applicant provides documentation that the linear accelerator has been or will be used exclusively for clinical research and teaching.~~

~~(c) An applicant proposing to acquire radiation therapy equipment other than a linear accelerator shall provide the following information:~~

- (1) ~~the number of patients who are projected to receive treatment from the proposed radiation therapy equipment, classified by type of equipment, diagnosis, treatment procedure, and county of residence; and~~
- (2) ~~the maximum number and type of procedures that the proposed equipment is capable of performing.~~

~~(d) The applicant shall document all assumptions and provide data supporting the methodology used to determine projected utilization as required in this Rule.~~

An applicant proposing to acquire a LINAC pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

- (1) identify the existing LINACs owned or operated by the applicant or a related entity and located in the proposed LINAC service area;
- (2) identify the approved LINACs owned or operated by the applicant or a related entity and located in the proposed LINAC service area;
- (3) provide projected utilization of the LINACs identified in Items (1) and (2) of this Rule and the proposed LINAC during each of the first three full fiscal years of operation following completion of the project;
- (4) provide the assumptions and methodology used for the projected utilization required by Item (3) of this Rule;
- (5) project that the LINACs identified in Items (1) and (2) of this Rule and the proposed LINAC shall perform during the third full fiscal year of operation following completion of the project:
 - (A) 6,750 or more ESTVs per LINAC; or
 - (B) serve 250 or more patients per LINAC.

SECTION .2300 – CRITERIA AND STANDARDS FOR COMPUTED TOMOGRAPHY EQUIPMENT

10A NCAC 14C .2301 DEFINITIONS

Authority G.S. 131E-177(1); 131E-183(b).

10A NCAC 14C .2303 PERFORMANCE STANDARDS

Authority G.S. 131E-177(1); 131E-183(b).

SECTION .2400 – CRITERIA AND STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES

10A NCAC 14C .2401 DEFINITIONS

The definitions in this Rule shall apply to all rules in this Section:

- (1) ~~"Intermediate care facility for the mentally retarded (ICF/MR)" shall have the same meaning as defined in G.S. 131E-176(14a).~~
- (2) ~~"Active treatment" means:~~
 - (a) ~~regular participation in professionally developed and supervised activities, experiences, or therapies in accordance with an individual plan of care;~~
 - (b) ~~an individual plan of care which is a written plan that is based on individual choice and sets forth measurable goals or behaviorally stated objectives and prescribes an integrated program of individually designed activities, experiences or therapies necessary to achieve such goals or objectives;~~
 - (c) ~~an interdisciplinary professional evaluation consisting of complete medical, social, or psychological diagnosis and an evaluation of the individual's need for the facility's care, prior to admission but not to exceed three months before admission to the facility or, in the case of individuals who make application while in such facility, before requesting payment under the plan;~~
 - (d) ~~re-evaluation medically, socially, and psychologically, at least annually by the staff involved in carrying out the resident's individual plan of care, including review of the individual's progress toward meeting the plan of care, assessment of continuing need for facility care, and consideration of alternate methods of care; and~~
 - (e) ~~an individual plan (as part of the individual's total plan of care) developed prior to discharge that is based on individual choice by a qualified developmental disabilities~~

Authority G.S. 131E-177(1); 131E-183(b).

~~professional and other appropriate professionals, which includes the present residence, specifying the type of care and services that will be needed to enable the individual to function in a different environment and also includes provisions for protective supervision.~~

- (3) ~~"Qualified Developmental Disabilities Professional" means a staff person in an ICF/MR facility designated to be responsible for supervising the implementation of each resident's individual plan of care, integrating the various aspects of the facility's program, recording each resident's progress and initiating periodic review of each individual plan of care. A Qualified Developmental Disabilities Professional shall meet the minimum qualifications for employment as defined in the 42 CFR 483.430 which is incorporated by reference including all subsequent amendments.~~
- (4) ~~"Catchment area" means the geographic part of the State served by a specific area authority ("Area authority" means the Mental Health, Developmental Disabilities, and Substance Abuse Authority.)~~

The following definitions shall apply to all rules in this Section:

- (1) "Catchment area" means as defined in G.S. 122C-3(4).
- (2) "Intermediate care facility for individuals with intellectual disabilities" means as defined in G.S. 131E-176(14a).

Authority G.S. 131E-177(1), (5); 131E-177(1); 131E-177(5); 131E-183.

**10A NCAC 14C .2403 PERFORMANCE STANDARDS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .2500 – CRITERIA AND STANDARDS FOR
SUBSTANCE USE DISORDER (CHEMICAL
DEPENDENCY TREATMENT) BEDS**

10A NCAC 14C .2501 DEFINITIONS

Authority G.S. 131E-177(1); 131E-183.

10A NCAC 14C .2503 PERFORMANCE STANDARDS

Authority G.S. 131E-177(1); 131E-183(b).

**SECTION .2600 – CRITERIA AND STANDARDS FOR
PSYCHIATRIC BEDS**

10A NCAC 14C .2601 DEFINITIONS

Authority G.S. 131E-177(1); 131E-183(b).

10A NCAC 14C .2603 PERFORMANCE STANDARDS

Authority G.S. 131E-177(1); 131E-183.

**SECTION .2700 - CRITERIA AND STANDARDS FOR
MAGNETIC RESONANCE IMAGING SCANNER**

10A NCAC 14C .2701 DEFINITIONS

The following definitions apply to all rules in this Section:

- (1) ~~"Approved MRI scanner" means an MRI scanner which was not operational prior to the beginning of the review period but which had been issued a certificate of need.~~
- (2) ~~"Capacity of fixed MRI scanner" means 100 percent of the procedure volume that the MRI scanner is capable of completing in a year, given perfect scheduling, no machine or room downtime, no cancellations, no patient transportation problems, no staffing or physician delays and no MRI procedures outside the norm. Annual capacity of a fixed MRI scanner is 6,864 weighted MRI procedures, which assumes two weighted MRI procedures are performed per hour and the scanner is operated 66 hours per week, 52 weeks per year.~~
- (3) ~~"Capacity of mobile MRI scanner" means 100 percent of the procedure volume that the MRI scanner is capable of completing in a year, given perfect scheduling, no machine or room downtime, no cancellations, no patient transportation problems, no staffing or physician delays and no MRI procedures outside the norm. Annual capacity of a mobile MRI scanner is 4,160 weighted MRI procedures, which assumes two weighted MRI procedures are performed per hour and the scanner is operated 40 hours per week, 52 weeks per year.~~
- (4) ~~"Dedicated breast MRI scanner" means an MRI scanner that is configured to perform only breast MRI procedures and is not capable of performing other types of non breast MRI procedures.~~
- (5) ~~"Existing MRI scanner" means an MRI scanner in operation prior to the beginning of the review period.~~
- (6) ~~"Extremity MRI scanner" means an MRI scanner that is utilized for the imaging of extremities and is of open design with a field of view no greater than 25 centimeters.~~
- (7) ~~"Fixed MRI scanner" means an MRI scanner that is not a mobile MRI scanner.~~
- (8) ~~"Magnetic Resonance Imaging" (MRI) means a non invasive diagnostic modality in which electronic equipment is used to create tomographic images of body structure. The MRI scanner exposes the target area to nonionizing magnetic energy and radio~~

- frequency fields, focusing on the nuclei of atoms such as hydrogen in the body tissue. Response of selected nuclei to this stimulus is translated into images for evaluation by the physician.
- (9) "Magnetic resonance imaging scanner" (MRI Scanner) is defined in G.S. 131E-176(14m).
- (10) "Mobile MRI region" means either the eastern part of the State which includes the counties in Health Service Areas IV, V and VI (Eastern Mobile MRI Region), or the western part of the State which includes the counties in Health Service Areas I, II, and III (Western Mobile MRI Region). The counties in each Health Service Area are identified in Appendix A of the State Medical Facilities Plan.
- (11) "Mobile MRI scanner" means an MRI scanner and transporting equipment which is moved at least weekly to provide services at two or more campuses or physical locations.
- (12) "MRI procedure" means a single discrete MRI study of one patient.
- (13) "MRI service area" means the Magnetic Resonance Imaging Planning Areas, as defined in the applicable State Medical Facilities Plan, except for proposed new mobile MRI scanners for which the service area is a mobile MRI region.
- (14) "MRI study" means one or more scans relative to a single diagnosis or symptom.
- (15) "Multi position MRI scanner" means an MRI scanner as defined in the State Medical Facilities Plan, pursuant to a special need determination for a demonstration project.
- (16) "Related entity" means the parent company of the applicant, a subsidiary company of the applicant (i.e., the applicant owns 50 percent or more of another company), a joint venture in which the applicant is a member, or a company that shares common ownership with the applicant (i.e., the applicant and another company are owned by some of the same persons).
- (17) "Temporary MRI scanner" means an MRI scanner that the Certificate of Need Section has approved to be temporarily located in North Carolina at a facility that holds a certificate of need for a new fixed MRI scanner, but which is not operational because the project is not yet complete.
- (18) "Weighted MRI procedures" means MRI procedures which are adjusted to account for the length of time to complete the procedure, based on the following weights: one outpatient MRI procedure without contrast or sedation is valued at 1.0 weighted MRI procedure, one outpatient MRI procedure with contrast or sedation is valued at 1.4 weighted MRI procedures, one inpatient MRI procedure without contrast or sedation is valued at 1.4 weighted MRI procedures; and one inpatient MRI procedure with contrast or sedation is valued at 1.8 weighted MRI procedures.
- (19) "Weighted breast MRI procedures" means MRI procedures which are performed on a dedicated breast MRI scanner and are adjusted to account for the length of time to complete the procedure, based on the following weights: one diagnostic breast MRI procedure is valued at 1.0 weighted MRI procedure (based on an average of 60 minutes per procedure), one MRI-guided breast needle localization MRI procedure is valued at 1.1 weighted MRI procedure (based on an average of 66 minutes per procedure), and one MRI-guided breast biopsy procedure is valued at 1.6 weighted MRI procedures (based on an average of 96 minutes per procedure).
- The following definitions shall apply to all rules in this Section:
- (1) "Adjusted MRI procedure" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.
- (2) "Approved MRI scanner" means a magnetic resonance imaging (MRI) scanner that was issued a certificate of need but is not being used to provide services as of the application deadline for the review period.
- (3) "Existing MRI scanner" means an MRI scanner that is being used to provide services as of the application deadline for the review period.
- (4) "Fixed MRI scanner" means an MRI scanner that is not a mobile MRI scanner.
- (5) "Fixed MRI scanner service area" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.
- (6) "Host site" means the location where the mobile MRI scanner provides services.
- (7) "Magnetic resonance imaging (MRI) scanner" shall have the same meaning as defined in G.S. 131E-176(14m).
- (8) "Mobile MRI scanner" means an MRI scanner that is moved weekly to provide services at two or more host sites.
- (9) "Mobile MRI scanner service area" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.
- (10) "Proposed MRI scanner" means the MRI scanner proposed in the application under review.
- Authority G.S. 131E-177(1); 131E-183(b).
- 10A NCAC 14C .2703 PERFORMANCE STANDARDS**
- (a) An applicant proposing to acquire a mobile magnetic resonance imaging (MRI) scanner shall:

- (1) ~~demonstrate that each existing mobile MRI scanner which the applicant or a related entity owns a controlling interest in and operates in the mobile MRI region in which the proposed equipment will be located, except temporary MRI scanners, performed 3,328 weighted MRI procedures in the most recent 12 month period for which the applicant has data [Note: This is not the average number of weighted MRI procedures performed on all of the applicant's mobile MRI scanners.]; with the exception that in the event an existing mobile MRI scanner has been in operation less than 12 months at the time the application is filed, the applicant shall demonstrate that this mobile MRI scanner performed an average of at least 277 weighted MRI procedures per month for the period in which it has been in operation;~~
 - (2) ~~demonstrate annual utilization in the third year of operation is reasonably projected to be at least 3328 weighted MRI procedures on each of the existing, approved and proposed mobile MRI scanners owned by the applicant or a related entity to be operated in the mobile MRI region in which the proposed equipment will be located [Note: This is not the average number of weighted MRI procedures performed on all of the applicant's mobile MRI scanners.]; and~~
 - (3) ~~document the assumptions and provide data supporting the methodology used for each projection required in this Rule.~~
- (b) ~~An applicant proposing to acquire a fixed magnetic resonance imaging (MRI) scanner, except for fixed MRI scanners described in Paragraphs (c) and (d) of this Rule, shall:~~
- (1) ~~demonstrate that the existing fixed MRI scanners which the applicant or a related entity owns a controlling interest in and locates in the proposed MRI service area performed an average of 3,328 weighted MRI procedures in the most recent 12 month period for which the applicant has data;~~
 - (2) ~~demonstrate that each existing mobile MRI scanner which the applicant or a related entity owns a controlling interest in and operates in the proposed MRI service area except temporary MRI scanners, performed 3,328 weighted MRI procedures in the most recent 12 month period for which the applicant has data [Note: This is not the average number of weighted MRI procedures performed on all of the applicant's mobile MRI scanners.];~~
 - (3) ~~demonstrate that the average annual utilization of the existing, approved and proposed fixed MRI scanners which the applicant or a related entity owns a controlling interest in and locates in the proposed MRI service area are reasonably expected to perform the following number of weighted MRI procedures, whichever is applicable, in the third year of operation following completion of the proposed project:~~
 - (A) ~~1,716 weighted MRI procedures in MRI service areas in which the SMFP shows no fixed MRI scanners are located;~~
 - (B) ~~3,775 weighted MRI procedures in MRI service areas in which the SMFP shows one fixed MRI scanner is located;~~
 - (C) ~~4,118 weighted MRI procedures in MRI service areas in which the SMFP shows two fixed MRI scanners are located;~~
 - (D) ~~4,462 weighted MRI procedures in MRI service areas in which the SMFP shows three fixed MRI scanners are located; or~~
 - (E) ~~4,805 weighted MRI procedures in MRI service areas in which the SMFP shows four or more fixed MRI scanners are located;~~
 - (4) ~~if the proposed MRI scanner will be located at a different site from any of the existing or approved MRI scanners owned by the applicant or a related entity, demonstrate that the annual utilization of the proposed fixed MRI scanner is reasonably expected to perform the following number of weighted MRI procedures, whichever is applicable, in the third year of operation following completion of the proposed project:~~
 - (A) ~~1,716 weighted MRI procedures in MRI service areas in which the SMFP shows no fixed MRI scanners are located;~~
 - (B) ~~3,775 weighted MRI procedures in MRI service areas in which the SMFP shows one fixed MRI scanner is located;~~
 - (C) ~~4,118 weighted MRI procedures in MRI service areas in which the SMFP shows two fixed MRI scanners are located;~~
 - (D) ~~4,462 weighted MRI procedures in MRI service areas in which the SMFP shows three fixed MRI scanners are located; or~~
 - (E) ~~4,805 weighted MRI procedures in MRI service areas in which the SMFP shows four or more fixed MRI scanners are located;~~
 - (5) ~~demonstrate that annual utilization of each existing, approved and proposed mobile MRI scanner which the applicant or a related entity owns a controlling interest in and locates in the proposed MRI service area is reasonably expected to perform 3,328 weighted MRI procedures in the third year of operation~~

~~following completion of the proposed project [Note: This is not the average number of weighted MRI procedures to be performed on all of the applicant's mobile MRI scanners.]; and~~

- ~~(6) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.~~

~~(c) An applicant proposing to acquire a fixed dedicated breast magnetic resonance imaging (MRI) scanner for which the need determination in the State Medical Facilities Plan was based on an approved petition for an adjustment to the need determination shall:~~

- ~~(1) demonstrate annual utilization of the proposed MRI scanner in the third year of operation is reasonably projected to be at least 1,664 weighted MRI procedures which is .80 times 1 procedure per hour times 40 hours per week times 52 weeks per year; and~~

- ~~(2) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.~~

~~(d) An applicant proposing to acquire a fixed extremity MRI scanner for which the need determination in the State Medical Facilities Plan was based on an approved petition for an adjustment to the need determination shall:~~

- ~~(1) demonstrate annual utilization of the proposed MRI scanner in the third year of operation is reasonably projected to be at least 80 percent of the capacity defined by the applicant in response to 10A NCAC 14C .2702(f)(7); and~~

- ~~(2) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.~~

~~(e) An applicant proposing to acquire a fixed multi position MRI scanner for which the need determination in the State Medical Facilities Plan was based on an approved petition for a demonstration project shall:~~

- ~~(1) demonstrate annual utilization of the proposed multi position MRI scanner in the third year of operation is reasonably projected to be at least 80 percent of the capacity defined by the applicant in response to 10A NCAC 14C .2702(g)(7); and~~

- ~~(2) document the assumptions and provide data supporting the methodology used for each projection required in this Rule.~~

(a) An applicant proposing to acquire a fixed MRI scanner pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

- (1) identify the existing fixed MRI scanners owned or operated by the applicant or a related entity and located in the proposed fixed MRI scanner service area;

- (2) identify the approved fixed MRI scanners owned or operated by the applicant or a related entity and located in the proposed fixed MRI scanner service area;

- (3) identify the existing mobile MRI scanners owned or operated by the applicant or a related entity that provided mobile MRI services at host sites located in the proposed fixed MRI scanner service area during the 12 months before the application deadline for the review period;

- (4) identify the approved mobile MRI scanners owned or operated by the applicant or a related entity that will provide mobile MRI services at host sites located in the proposed fixed MRI scanner service area;

- (5) provide projected utilization of the MRI scanners identified in Subparagraphs (a)(1) through (a)(4) of this Paragraph and the proposed fixed MRI scanner during each of the first three full fiscal years of operation following completion of the project;

- (6) provide the assumptions and methodology used to project the utilization required by Subparagraph (a)(5) of this Paragraph;

- (7) project that the fixed MRI scanners identified in Subparagraphs (a)(1) and (a)(2) of this Paragraph and the proposed fixed MRI scanner shall perform during the third full fiscal year of operation following completion of the project:

(A) 3,364 or more adjusted MRI procedures per fixed MRI scanner if there are four or more fixed MRI scanners in the fixed MRI scanner service area;

(B) 3,123 or more adjusted MRI procedures per fixed MRI scanner if there are three fixed MRI scanners in the fixed MRI scanner service area;

(C) 2,883 or more adjusted MRI procedures per fixed MRI scanner if there are two fixed MRI scanners in the fixed MRI scanner service area;

(D) 2,643 or more adjusted MRI procedures per fixed MRI scanner if there is one fixed MRI scanner in the fixed MRI scanner service area; or

(E) 1,201 or more adjusted MRI procedures per MRI scanner if there are no existing fixed MRI scanners in the fixed MRI scanner service area; and

- (8) project that the mobile MRI scanners identified in Subparagraphs (3) and (4) of this Paragraph shall perform 3,328 or more adjusted MRI procedures per mobile MRI scanner during the third full fiscal year of operation following completion of the project.

(b) An applicant proposing to acquire a mobile MRI scanner pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

- (1) identify the existing mobile MRI scanners owned or operated by the applicant or a related entity that provided mobile MRI services at host sites located in the proposed mobile MRI scanner service area during the 12 months before the application deadline for the review period;
- (2) identify the approved mobile MRI scanners owned or operated by the applicant or a related entity that will provide mobile MRI services at host sites located in the proposed mobile MRI scanner service area;
- (3) identify the existing fixed MRI scanners owned or operated by the applicant or a related entity that are located in the proposed mobile MRI scanner service area;
- (4) identify the approved fixed MRI scanners owned or operated by the applicant or a related entity that will be located in the proposed mobile MRI scanner service area;
- (5) identify the existing and proposed host sites for each mobile MRI scanner identified in Subparagraphs (b)(1) and (b)(2) of this Paragraph and the proposed mobile MRI scanner;
- (6) provide projected utilization of the MRI scanners identified in Subparagraphs (b)(1) through (b)(4) of this Paragraph and the proposed mobile MRI scanner during each of the first three full fiscal years of operation following completion of the project;
- (7) provide the assumptions and methodology used to project the utilization required by Subparagraph (b)(6) of this Paragraph;
- (8) project that the mobile MRI scanners identified in Subparagraphs (b)(1) and (b)(2) of this Paragraph and the proposed mobile MRI scanner shall perform 3,328 or more adjusted MRI procedures per MRI scanner during the third full fiscal year of operation following completion of the project; and
- (9) project that the fixed MRI scanners identified in Subparagraphs (b)(3) and (b)(4) of this Paragraph shall perform during the third full fiscal year of operation following completion of the project;
 - (A) 3,364 or more adjusted MRI procedures per fixed MRI scanner if there are four or more fixed MRI scanners in the fixed MRI scanner service area;
 - (B) 3,123 or more adjusted MRI procedures per fixed MRI scanner if there are three fixed MRI scanners in the fixed MRI scanner service area;
 - (C) 2,883 or more adjusted MRI procedures per fixed MRI scanner if there are two fixed MRI scanners in the fixed MRI scanner service area;

- (D) 2,643 or more adjusted MRI procedures per fixed MRI scanner if there is one fixed MRI scanner in the fixed MRI scanner service area; or
- (E) 1,201 or more adjusted MRI procedures per MRI scanner if there are no fixed MRI scanners in the fixed MRI scanner service area.

Authority G.S. 131E-177(1); 131E-183(b).

SECTION .3700 - CRITERIA AND STANDARDS FOR POSITRON EMISSION TOMOGRAPHY SCANNER

10A NCAC 14C .3701 DEFINITIONS

The following definitions shall apply to all rules in this Section:

- (1) ~~"Approved positron emission tomography (PET) scanner" means a PET scanner which was not operational prior to the beginning of the review period but which had been issued a certificate of need.~~
- (2) ~~"Cyclotron" means an apparatus for accelerating protons or neutrons to high energies by means of a constant magnet and an oscillating electric field.~~
- (3) ~~"Dedicated PET Scanner" means PET Scanners as defined in the applicable State Medical Facilities Plan.~~
- (4) ~~"Existing PET scanner" means a PET scanner in operation prior to the beginning of the review period.~~
- (5) ~~"Mobile PET Scanner" means a PET scanner and transporting equipment that is moved, at least weekly, to provide services at two or more host facilities.~~
- (6) ~~"PET procedure" means a single discrete study of one patient involving one or more PET scans.~~
- (7) ~~"PET scan" means an image scanning sequence derived from a single administration of a PET radiopharmaceutical, equated with a single injection of the tracer. One or more PET scans comprise a PET procedure.~~
- (8) ~~"PET scanner service area" means the PET Scanner Service Area as defined in the applicable State Medical Facilities Plan.~~
- (9) ~~"Positron emission tomographic scanner" (PET) is defined in G.S. 131E-176(19a).~~
- (10) ~~"Radioisotope" means a radiochemical which directly traces biological processes when introduced into the body.~~

The following definitions shall apply to all rules in this Section:

- (1) "Approved PET scanner" means a positron emission tomography (PET) scanner that was issued a certificate of need but is not being used to provide services as of the application deadline for the review period.
- (2) "Existing PET scanner" means a PET scanner that is being used to provide services as of the application deadline for the review period.

- (3) "Fixed PET scanner" means a PET scanner that is not mobile.
- (4) "Fixed PET scanner service area" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.
- (5) "Host site" means the location where the mobile PET scanner provides services.
- (6) "Mobile PET scanner" means a PET scanner that is moved weekly to provide services at two or more host sites.
- (7) "Mobile PET scanner service area" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.
- (8) "PET scanner" shall have the same meaning as defined in G.S. 131E-176(19a).
- (9) "Proposed PET scanner" means the PET scanner proposed in the application under review.

Authority G.S. 131E-177(1); 131E-183(b).

10A NCAC 14C .3703 PERFORMANCE STANDARDS

~~(a) An applicant proposing to acquire a dedicated PET scanner, including a mobile dedicated PET scanner, shall demonstrate that:~~

- ~~(1) the proposed dedicated PET scanner, including a proposed mobile dedicated PET scanner, shall be utilized at an annual rate of at least 2,080 PET procedures by the end of the third year following completion of the project;~~
- ~~(2) if an applicant operates an existing dedicated PET scanner, its existing dedicated PET scanners, excluding those used exclusively for research, performed an average of at least 2,080 PET procedures per PET scanner in the last year; and~~
- ~~(3) its existing and approved dedicated PET scanners shall perform an average of at least 2,080 PET procedures per PET scanner during the third year following completion of the project.~~

~~(b) The applicant shall describe the assumptions and provide data to support and document the assumptions and methodology used for each projection required in this Rule.~~

(a) An applicant proposing to acquire a fixed PET scanner pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

- (1) identify the existing fixed PET scanners owned or operated by the applicant or a related entity and located in the proposed fixed PET scanner service area;
- (2) identify the approved fixed PET scanners owned or operated by the applicant or a related entity and located in the proposed fixed PET scanner service area;
- (3) identify the existing mobile PET scanners owned or operated by the applicant or a related

entity that provided services at host sites located in the proposed fixed PET scanner service area during the 12 months before the application deadline for the review period;

- (4) identify the approved mobile PET scanners owned or operated by the applicant or a related entity that will provide services at host sites located in the proposed fixed PET scanner service area;

- (5) provide projected utilization of the PET scanners identified in Subparagraphs (a)(1) through (a)(4) of this Paragraph and the proposed fixed PET scanner during each of the first three full fiscal years of operation following completion of the project;

- (6) provide the assumptions and methodology used to project the utilization required by Subparagraph (a)(5) of this Paragraph; and

- (7) project that the PET scanners identified in Subparagraphs (a)(1) through (a)(4) of this Paragraph and the proposed fixed PET scanner shall perform 2,080 or more procedures per PET scanner during the third full fiscal year of operation following completion of the project.

(b) An applicant proposing to acquire a mobile PET scanner pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

- (1) identify the existing mobile PET scanners owned or operated by the applicant or a related entity that provided services at host sites located in the proposed mobile PET scanner service area during the 12 months before the application deadline for the review period;

- (2) identify the approved mobile PET scanners owned or operated by the applicant or a related entity that will provide services at host sites located in the proposed mobile PET scanner service area during the first three full fiscal years following completion of the project;

- (3) identify the existing fixed PET scanners owned or operated by the applicant or a related entity and located in the proposed mobile PET scanner service area;

- (4) identify the approved fixed PET scanners owned and operated by the applicant or a related entity and located in the proposed mobile PET scanner service area;

- (5) identify the existing and proposed host sites for each mobile PET scanner identified in Subparagraphs (b)(1) and (b)(2) of this Paragraph and the proposed mobile PET scanner;

- (6) provide projected utilization of the PET scanners identified in Subparagraphs (b)(1) through (b)(4) of this Paragraph and the proposed mobile PET scanner during each of the first three full fiscal years of operation following completion of the project;

- (7) provide the assumptions and methodology used to project the utilization required by Subparagraph (b)(6) of this Paragraph; and
- (8) project that the PET scanners identified in Subparagraphs (b)(1) through (b)(4) of this Paragraph and the proposed mobile PET scanner shall perform 2,080 or more procedures per PET scanner during the third full fiscal year of operation following completion of the project.

Authority G.S. 131E-177(1); 131E-183(b).

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

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 Environmental Quality intends to adopt the rule cited as 15A NCAC 07O .0203, amend the rules cited as 15A NCAC 07O .0102, .0105, and readopt with substantive changes the rules cited as 15A NCAC 07O .0101, .0103, .0104, .0201, and .0202.

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

Proposed Effective Date: November 1, 2021

Public Hearing:

Date: August 26, 2021

Time: 12:30 p.m.

Location: Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557

Reason for Proposed Action: 15A NCAC 07O has remained largely unchanged since it was first adopted in 1986. The Department of Environmental Quality is proposing rule amendments for the North Carolina Coastal Reserve. These amendments will satisfy the Legislative Periodic Review and Expiration of Existing Rules process requirements (G.S. 150B-21.3A), and address priority updates to enhance clarity of existing rules and address issues and gaps to ensure effective management of the North Carolina Coastal Reserve in accordance with G.S. 113A-129.1-3 (Coastal Area Management Act).

Comments may be submitted to: Rebecca Ellin, NC Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557; phone (252) 838-0880; email rebecca.ellin@ncdenr.gov

Comment period ends: September 13, 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 984-236-1850.

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

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

CHAPTER 07 - COASTAL MANAGEMENT

SUBCHAPTER 07O - NORTH CAROLINA COASTAL RESERVE

SECTION .0100 - GENERAL PROVISIONS

15A NCAC 07O .0101 STATEMENT OF PURPOSE

The principal purposes of the North Carolina Coastal Reserve and supporting programs are to:

- (1) preserve coastal ecosystems representative of the various biogeographic regions and typologies in North Carolina and to make them available for continuous future study of the processes, functions, and influences which shape and sustain the coastal ecosystems;
- (2) provide new information on coastal ecosystem processes to decisionmakers as a basis for the promotion of sound management of coastal resources;
- (3) provide a focal point for educational activities that increase the public awareness and understanding of coastal ecosystems, effects of humans ~~man~~ on them, and the importance of the coastal systems to the state and the Nation;
- (4) accommodate traditional ~~recreational activities,~~ uses, commercial fishing, and other uses of the Reserve as long as they do not disturb the Reserve environment and are compatible with the research and educational activities within the Reserve components, ~~taking place there.~~

Authority G.S. 113-3; 113-8; 113A-129.1-3; 143B-10.

15A NCAC 07O .0102 DEFINITIONS AS USED IN THIS SUBCHAPTER

Definitions as used in this Subchapter are:

- (1) "Coastal Reserve" means those coastal land and water ~~areas~~ areas, which include land and water

portions of an estuary and adjacent transitional areas and uplands, set aside as a natural field laboratory and classroom to be maintained in their natural state to provide for long-term opportunities for research, education and compatible traditional uses ~~recreation~~ and enjoyment of natural and scenic beauty. The Coastal Reserve includes the North Carolina National Estuarine Research Reserve.

- (2) "Estuary" means that part of a river or stream or body of water having unimpaired connection with the open sea, where sea water is measurably diluted with fresh water derived from land drainage.
- (3) ~~"Research Reserve" means a group of areas or components, each of which may include all or the key land and water portion of an estuary and adjacent transitional areas and uplands, constituting to the extent feasible a natural unit, set aside as a natural field laboratory to provide long-term opportunities for research, education, and interpretation of the ecological relationships within the area. The Coastal Reserve includes the North Carolina National Estuarine Research Reserve.~~
- (4)(3) "Reserve" means any area designated pursuant to this Subchapter.
- (5)(4) "Traditional uses" means public trust uses as defined in G.S. 1-45.1, including fishing, hunting, navigation, and recreation.

Authority G.S. 113-3; 113-8; 113A-129.1-3; 143B-10.

15A NCAC 070 .0103 RESPONSIBILITIES: DUTIES OF THE COASTAL RESERVE PROGRAM

The Coastal Reserve Program of the Division of Coastal Management shall be responsible for managing and protecting the North Carolina Coastal Reserve; ~~for~~ promoting and coordinating research and educational programs at the components while allowing for compatible traditional uses; ~~for~~ maintaining a management plan for the Reserve; ~~for~~ maintaining cooperative agreements with scientific, educational, and resource management agencies and private citizens that will assist in the management of the Reserve; and ~~for~~ providing new information on coastal processes to coastal management decisionmakers.

Authority G.S. 113-3; 113-8; 113A-129.1-3; 143B-10.

15A NCAC 070 .0104 STATE AND LOCAL COASTAL RESERVE ADVISORY COMMITTEES

Advisory committees shall be established for each ~~individual Reserve component~~ component. ~~The committees and~~ shall advise ~~the Reserve staff, coordinator.~~ Members of the committees shall include researchers, educators, managers, partner agencies and organizations, and citizens that use or are affected by the Reserve. Reserve and its components. The committees shall be appointed by the Secretary of the Department of ~~Environment, Environmental Quality, Health, and Natural Resources.~~

Authority G.S. 113-3; 113-8; 113A-129.1-3; 143B-10.

15A NCAC 070 .0105 RESERVE COMPONENTS

(a) The North Carolina Coastal Reserve includes the following components:

- (1) Zeke's Island;
- (2) Rachel Carson;
- (3) Currituck Banks;
- (4) Masonboro Island;
- (5) Permuda Island;
- (6) Buxton Woods;
- (7) Bald Head Woods;
- (8) Kitty Hawk Woods;
- (9) Bird Island; and
- (10) Emily and Richardson Preyer Buckridge.

The North Carolina National Estuarine Research Reserve includes components in Subparagraphs (a)(1) - (4) of this Rule.

(b) Detailed boundary maps for each component are maintained and available for inspection at the Division of Coastal Management, 400 Commerce Avenue, Morehead City NC 28557.

Authority G.S. 113-3; 113-8; 113A-129.1-3; 143B-10.

SECTION .0200 - MANAGEMENT: USE AND PROTECTION OF THE NORTH CAROLINA COASTAL RESERVE

15A NCAC 070 .0201 MANAGEMENT PLAN

The Division of Coastal Management shall prepare a management plan for the Reserve. The management plan shall contain specific policies for research, education, natural resource management, and traditional uses at each component. The Secretary of the Department of ~~Environment, Environmental Quality, Health, and Natural Resources~~ shall approve the management plan and its revisions. The Division of Coastal Management shall seek input from the local advisory committees, the Coastal Resources Commission, and the public on revisions to the management plan. The Division of Coastal Management shall monitor and manage ~~the Reserve~~ components and report to the Secretary violations of the approved plan and any other situations that may be harmful to the natural resources of the Reserve.

Authority G.S. 113-3; 113-8; 113A-129.1-3; 143-341; 143-342; 143B-10.

15A NCAC 070 .0202 RESERVE USE REQUIREMENTS

The following use requirements shall apply to ~~all the lands and waters within the boundaries~~ of the components of the Reserve:

- (1) The ~~essential~~ natural character of the Reserve shall be maintained.
- (2) Traditional ~~recreational~~ uses within each component shall be allowed to continue as long as the activities are consistent with 15A NCAC 070 .0101(4). ~~do not disrupt the natural integrity of the Reserve or any research or educational projects.~~ Incompatible traditional uses are prohibited and shall include:

- (a) fishing, hunting, or trapping activities not allowed by federal, state, and local rules;
 - (b) target shooting; and
 - (c) mechanical hydraulic clam dredging dredging, within Reserve boundaries;
 - (d) use of vehicles off designated corridors at components where vehicles are allowed for upland transportation according to the management plan; and
 - (e) production of noise disruptive to local wildlife and the aesthetic enjoyment of the Reserve as a natural area.
- (3) No user shall It is prohibited to disturb a an authorized research or natural resource monitoring project or research equipment in place at the Reserve.
- (4) Camping or any form of habitation habitation, whether on the uplands uplands, or wetlands wetlands, of the Reserve is prohibited or waters within Reserve boundaries, shall not be allowed unless written permission is posted by the Division of Coastal Management except on the uplands at the Masonboro Island Reserve, where camping is allowed for no more than two consecutive nights.
- (5) Fires are prohibited except at the Masonboro Island Reserve on open sand and away from vegetation.
- (5) Personal property not authorized by the management agency may not be placed within the boundaries of the Reserve for more than two consecutive days.
- (6) Users of the Reserve shall not It is prohibited to disturb or remove any live animals, except those allowed by local or state hunting hunting, trapping, and fishing rules as they apply to the Reserve, or vegetation vegetation, fungi, or cultural resources within the Reserve unless such action is part of a research or educational project approved authorized by the management agency. Division of Coastal Management.
- (7) Persons wishing to engage in scientific research and monitoring, or collection of natural and cultural materials for scientific purposes within the Reserve shall first secure written permission authorization from the management agency. Division of Coastal Management prior to beginning said activity. Written authorization does not eliminate the need to obtain any other federal, state, or local authorization, nor to abide by regulations adopted by any federal, state, or local agency. Application for authorization shall be made by contacting Reserve staff at the Division of Coastal Management.
- (8) No activity shall be allowed which might pollute any stream or body of water in the Reserve. Acts of pollution shall include:
 (a) Deposition of solid materials not indigenous to the local coastal ecosystem; and
 (b) Discharge of liquids other than uncontaminated estuarine water.
- (8) It is prohibited to produce noise disruptive to local wildlife or the aesthetic enjoyment of the Reserve as a natural area.
- (9) No other It is prohibited to conduct or engage in acts or uses which are detrimental to the maintenance of the Reserve property in its natural condition shall be allowed including, but not limited to, disturbances of the soil, mining, commercial or industrial uses, timber harvesting, ditching and draining, and deposition of waste materials. Disposal of dredge spoil materials within existing U.S. Army Corps of Engineers easements at Reserve components may be allowed with authorization from the U.S. Army Corps of Engineers and N.C. Department of Administration, in consultation with the Division.
- (10) The following requirements pertain to littering, dumping, deposition, and pollution:
 (a) It is prohibited to leave any personal property unattended within the boundaries of any Reserve component longer than 24 hours, at which point it shall be considered litter in accordance with G.S. 14-399 and subject to removal at the owner's expense and/or prosecution.
 (b) It is prohibited to abandon or allow to be abandoned any vessels of any kind within the boundaries of any Reserve component. Vessels not removed within 30 days will be considered litter in accordance with G.S. 14-399 and subject to removal at the owner's expense and/or prosecution.
 (c) It is prohibited to dispose of any litter, as described in G.S. 14-399, within the boundaries of any Reserve component.
 (d) It is prohibited to dump, deposit, place, or allow to be abandoned any autos, appliances, trash, debris, garbage, shell or discarded material(s) of any kind within the boundaries of any Reserve component.
 (e) It is prohibited to conduct or engage in activities that pollute any land, wetland, stream, creek or other body of water within the boundaries of any Reserve component, in accordance with G.S. 75A-10, 76-40.

- (11) The following requirements pertain to vehicles and parking:
- (a) Motorized vehicles as defined in G.S. 20-4.01 (23) are prohibited within the boundaries of any Reserve component while not actively engaged in a Reserve-based activity, Reserve business, or an activity authorized by the Division of Coastal Management.
 - (b) Motorized vehicles are prohibited outside of designated corridors within the boundaries of Reserve components where vehicles are allowed for upland transportation according to the management plan.
 - (c) It is prohibited to allow a motorized vehicle to block traffic, gates, driveways or emergency vehicle access.
 - (d) It is prohibited to park a motorized vehicle within the boundaries of any Reserve component overnight, or allow a motorized vehicle to remain anywhere within the boundaries of any Reserve component unattended or abandoned for longer than 12 hours except at the Currituck Banks Reserve parking lot where there is a 2 hour limit.
 - (e) The Division or its agents may immobilize or tow any motorized vehicle that is in violation of this Rule at the owner's expense.
 - (f) Non-motorized vehicles are prohibited where the use of the vehicle will damage natural resources, on pedestrian trails not designated for this use, and in any areas of Reserve components not customarily used for such purpose.
- (12) The Division staff and its authorized agents are exempt from this rule when engaged in management activities, such as incorporation of natural materials, beneficial use of dredged materials, or other engineering practices that protect, restore, or enhance the natural character of the Reserve.

Authority G.S. 113-3; 113-8; 113A-129.1-3; 113-264; 143B-10.

15A NCAC 070 .0203 SPECIAL ACTIVITY AUTHORIZATION

The following Items shall apply to special activity authorization within the boundaries of the components of the Reserve:

- (1) Written authorization is required for organized events, commercial activities and other special activities or uses within the boundaries of any Reserve component not included in the primary

- uses of research, education, and compatible traditional uses.
- (2) A request for written authorization shall be made by contacting Reserve staff at the Division of Coastal Management. Written authorization does not eliminate the need to obtain any other federal, state, or local authorization, nor to abide by regulations adopted by any federal, state, or local agency.
- (3) A request for written authorization shall be made a minimum of 30 days prior to and up to one year in advance of the activity or use. The request shall include the name, address and phone number of the applicant; the name of the organization (if any); the name, address and phone number of a contact person; the date, time, duration, nature and location of the proposed activity or use; the estimated number of persons expected to participate; the equipment to be used during the activity; and other information necessary to allow for evaluation of an application.
- (4) The Reserve Manager or designee shall provide written authorization unless one or more of the following apply:
 - (a) A prior request for a written authorization for a similar activity or use has been made and granted; and the activities or uses authorized by the written authorization do not allow multiple activities or uses of that location during the same timeframe;
 - (b) The activity or use will threaten the health, safety and welfare of persons using the Reserve;
 - (c) The activity or use is of such a nature or duration that it cannot be conducted or performed in the location due to:
 - (i) the potential for damage to the Reserve or facilities;
 - (ii) interference with research or education programs, or site management activities of the Reserve;
 - (iii) disturbance of wildlife, habitats, or other natural features of the Reserve; or
 - (iv) burden placed on public agencies by the activity;
 - (d) The activity or use conflicts with the principal purposes of the Reserve as defined in 15A NCAC 070 .0101; or
 - (e) The activity or use does not comply with the Reserve use requirements found in section 15A NCAC 070 .0202 or dedicated nature preserve letters of allocation under G.S. 143B Article 2 Part 42 Nature Preserves Act

- or would constitute a violation of other applicable law or regulation.
- (5) The written authorization may contain conditions consistent with protection and use of the Reserve for the purposes for which it is operated.
 - (6) The authorized user shall not transfer or assign authorization, or grant any part of an authorized use, to any person not indicated on the written authorization request.
 - (7) If a request is denied, the applicant shall be informed in writing, with the reason(s) for the denial.
 - (8) Participants engaged in activities authorized under this Rule shall also be subject to Reserve Rules.
 - (9) A written authorization only authorizes uses or activities that conform to the terms contained in the authorization or in applicable federal, state, and local rules and existing laws. Violation of the terms and conditions of a written authorization, including engaging in any activities or uses not expressly authorized, shall result in revocation of the authorization by the Division of Coastal Management. Violations shall be subject to any other civil and/or criminal penalties prescribed by law.

Authority G.S. 113-3; 113-8; 113A-129.1-3; 133-264; 143B-10.

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 Division of Motor Vehicles intends to adopt the rule cited as 19A NCAC 03A .0105 and readopt without substantive changes the rule cited as 19A NCAC 03B .0201.

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: November 1, 2021

Public Hearing:

Date: August 2, 2021

Time: 10:00 a.m.

Location: Register to attend and view the Virtual Meeting using a computer, tablet or smartphone:
<https://attendee.gotowebinar.com/register/8042115433839249167>
 After registering, you will receive a confirmation email containing information about joining the webinar. If no computer

access, please call in to the meeting at 1-415-655-0060 then dial attendee access code: 796-332-697.

Reason for Proposed Action: The Division of Motor Vehicles headquarters office has moved its physical location to Rocky Mount, North Carolina. The agency wishes to adopt a rule, 19A NCAC 03A .0105, to notify interested parties of the agency's physical and mailing locations, as well as the agency's web page.

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 rule to be necessary without substantive changes and is recommended for readoption: 19A NCAC 03B .0201.

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

Comment period ends: September 15, 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.

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 03A - ADMINISTRATION

SECTION .0100 - GENERAL ADMINISTRATION

19A NCAC 03A .0105 GENERAL INFORMATION

The following is general information about the Division of Motor Vehicles:

- (1) The mailing address is 3101 Mail Service Center, Raleigh, North Carolina 27697-3101.
- (2) The physical location is 1515 North Church Street, Rocky Mount, North Carolina 27804.
- (3) The web page address is www.ncdmv.org.

Authority G.S. 20-1; 20-2.

SUBCHAPTER 03B - DRIVER LICENSE SECTION

SECTION .0200 - DRIVER'S LICENSE ISSUANCE

19A NCAC 03B .0201 DRIVER'S LICENSE EXAMINATION AND ONLINE RENEWAL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 26 – BOARD OF LANDSCAPE ARCHITECTS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Landscape Architects intends to adopt the rule cited as 21 NCAC 26 .0212 and amend the rules cited as 21 NCAC 26 .0101, .0105, .0107, .0201, .0206, .0209, .0210, .0303, .0306, .0308-.0315, and .0510.

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

Proposed Effective Date: November 1, 2021

Public Hearing:

Date: August 2, 2021

Time: 10:00 a.m.

Location: Virtual Meeting; Via Zoom; Meeting ID 895 3485 9419; Meeting Passcode: 326489 ((301)715-8592 from a telephone)

Reason for Proposed Action: A number of the amendments merely correct previous drafting errors and make due dates for fees, etc. consistent; the term "license" is defined and the term "license" is substituted for the term "registration" in numerous instances; five amendments make adjustments in light of licensees now having a secure on-line licensing portal; soil scientist is added as an additional licensed profession who can be an officer in a landscape architectural firm; a deadline to report a disciplinary action in another jurisdiction has been added and the process for complaints to the Board spelled out; the scope of practice for the design of walls has been added; and, the extension of deadlines during a declared national or State emergency (previously a temporary rule) are being made permanent.

Comments may be submitted to: Barbara U. Geiger, P.O. Box 21225, Raleigh, NC 27-6928; phone (919) 850-9088; email barbara.geiger@ncbola.org

Comment period ends: September 13, 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.

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 26 .0101 AUTHORITY: NAME AND LOCATION OF BOARD

The "North Carolina Landscape Architecture Act," G.S. Chapter 89A, establishes and authorizes the "North Carolina Board of Landscape Architects," hereafter called the "Board." Unless otherwise directed, all communications shall be addressed to the Board at Post Office Box 41225, Raleigh, North Carolina 27629. Applications and other information is available on the Board's website: www.ncbola.org.

Authority G.S. 89A-3.1.

21 NCAC 26 .0105 FEES

- (b) The fee for any initial license application shall be one hundred dollars (\$100.00).
- (b) Examination fees payable to the Board shall be paid prior to the examination and in accordance with G.S. 89A-6.
- (c) The initial fee for a license by examination or comity shall be one hundred fifty dollars (\$150.00).
- (d) The initial fee for a corporate certificate of registration shall be two hundred dollars (\$200.00).
- (e) The fee for the annual renewal of any certificate of registration of any person, firm, or corporation shall be one hundred dollars (\$100.00).
- (f) Annual renewal fees received after ~~July 1st~~ June 30th of each year shall be subject to a late fee of fifty dollars (\$50.00). Lapse of license renewal in excess of one year shall require an application for reinstatement and an application fee of one hundred dollars (\$100.00).
- (g) The fee for re-issue of a lost or damaged certificate shall be twenty-five dollars (\$25.00).

(h) If the accompanying payment in the amount of the renewal fee is dishonored by the firm's drawee bank for any reason, the Board shall suspend the firm registration until the renewal fee is paid.

Authority G.S. 89A-3.1; 89A-5; 89A-6; Eff. February 1, 1976.

21 NCAC 26.0107 DEFINITIONS

In addition to the definitions in G.S. 89A-1, for purposes of this Section, the following definitions apply:

- (1) "Board Executive" means the administrator of the Board.
- (2) "CLARB" means the Council of Landscape Architectural Registration Boards.
- (3) "Contact hour" means 60 continuous minutes.
- (4) "CEAC" means the Continuing Education Advisory Committee of the Board.
- (5) "Direct Supervision" means the level of supervision by a licensed professional overseeing the work of another in which both work in circumstances where professional contact is relevant and routine, and the supervisor has both control over and detailed professional knowledge of the work prepared under his or her supervision.
- (6) "Education Activity" means an activity that increases the professional knowledge or skills of a licensee and relates to the protection or enhancement of the health, safety and welfare of the public and is approved by the Board.
- (7) "Examination" means the process by which the Board determines the experience, academic or other qualifications and fitness for practice of an applicant, and may include a written examination administered by the Board or a third party.
- (8) "Foreign Corporation" means a foreign corporation as defined in G.S. 55B-16(b).
- (9) "LAAB" means the Landscape Architecture Accreditation Board.
- (10) "LARE" means the Landscape Architecture Registration Exam administered by the CLARB.
- (11) "License" means registration with the Board and use of "RLA" as a designator for Registered Landscape Architect shall denote licensure by the Board.
- ~~(11)~~(12) "License Year" means July 1st through June 30th.
- ~~(12)~~(13) "Resident licensed professional" means a licensee who spends a majority of the licensee's normal working time in a specifically identified place of business within North Carolina. Such time shall not be less than a majority of the operating hours of the business. A licensed professional shall be the resident licensee at only one place of business at one time unless each business is at least one-third owned by the resident professional and is approved by the

Board after a determination that the businesses are integrated in operation, ownership, office location, and that the licensee will be in responsible charge of the professional services.

Authority G.S. 89A-3.1(2); 89A-5.

SECTION .0200 - PRACTICE OF REGISTERED LANDSCAPE ARCHITECTS

21 NCAC 26.0201 BOARD LISTING OF INDIVIDUAL AND FIRM NAMES

Every individual licensee, partnership, firm or corporation has the continuing responsibility of keeping the Board advised of his, her or its current mailing address and other contact information and the name or names under which he, she or it is practicing landscape architecture. Each licensee or firm shall ~~notify the Board of any and all~~ keep current its online profile and within 10 days of the change update changes of association, address or contact information. Upon the dissolution or change of a professional relationship, the member or members thereof shall notify the Board in writing concerning such dissolution, and of the succeeding status and addresses of the individual or firm. Notice to the Board required by this Rule shall be provided within 10 days of the change.

Authority G.S. 89A-3.1(2).

21 NCAC 26.0206 NAME OF FIRM

(a) The name of a landscape architectural firm shall not include the proper name of any officer or employee who is not a licensed landscape architect, architect, geologist, soil scientist, land surveyor or professional engineer.

(b) The word "associate" may be used only with reference to a licensee who is a principal or regular employee of the firm. The plural form may be used only when justified by the number of licensees in addition to those licensees whose proper names are included in the firm name as follows:

- (1) Example: Proper Name and (&) Associates shall refer to a principal landscape architect and at least two licensed landscape architectural employees.
- (2) Example: Proper Name Associates shall refer to at least one principal landscape architect and at least one licensed landscape architectural employee.
- (3) Example: Assumed Name Associates shall refer to at least one principal landscape architect and at least one licensed landscape architectural employee, or two or more principal landscape architects.

~~(c) Names Previously in Effect.~~ This Rule shall not be construed to require any firm to seek approval of, or to change, any name duly adopted in conformity with Board Rules in effect at the date of such adoption.

Authority G.S. 55B-5; 89A-3.1.

21 NCAC 26 .0209 UNPROFESSIONAL CONDUCT

~~Registrants~~ A licensee shall not:

- (1) allow ~~one's~~ his or her name to be associated with an undertaking in any professional capacity without having served specifically in that capacity;
- (2) accept compensation in whole or in part from fees, commissions, earnings, commercial or speculative profit deriving from sales of materials or services provided to a Landscape Architect's client by others;
- (3) make exaggerated or misleading statements or claims about any personal qualifications, experience or performance;
- (4) fail to disclose to a client or employer the existence of any financial interest which bears upon the ~~Landscape Architectural~~ landscape architectural services or project in any way;
- (5) fail to respond within 30 calendar days to any inquiry from the Board; or
- (6) fail to supervise his or her practice. Each office maintained for the preparation of drawings, specifications, reports or other professional work shall have a registered landscape architect employed in that office who shall have direct knowledge and supervisory control of such work, except field offices maintained only for the purpose of project construction administration shall have at least one employee present with the supervising landscape architect maintaining control and making periodic visits.

Authority G.S. 89A-3.1; 89A-7.

21 NCAC 26 .0210 DISHONEST PRACTICE

(a) ~~Registrants~~ A licensee shall not:

- (1) knowingly make any deceptive or false statement about another's professional work or maliciously injure or attempt to injure the prospects, practice, or employment position of those so engaged;
- (2) knowingly make any deceptive or false statements in an application for examination or in any other statements or representations to the Board, to any public agency, to a prospective or actual client, or to another Landscape Architect; or
- (3) fail to notify ~~this Board, if registered as a Landscape Architect in North Carolina, the Board~~ of disciplinary action by a Landscape Architectural Board landscape architect licensing, registration or certification entity in another ~~jurisdiction~~ jurisdiction within five business days of that jurisdiction's final action in the matter.

(b) Because of the inherent conflict of interest with construction services, a landscape architect shall not provide contracting services, including combined design and construction (design-build) practice, unless he or she does the following:

- (1) ~~Uses~~ uses the term "limited landscape architectural services" in all representations to the public and the client; and
- (2) ~~Affixes~~ affixes a notation on each construction drawing and the cover of technical specifications ~~stating~~ stating: "These construction drawings and technical specifications represent the full extent of the limited landscape architectural services provided for this project."

Authority G.S. 89A-3.1; 89A-7.

21 NCAC 26 .0212 SCOPE OF PRACTICE

The scope of practice as defined by G.S. 89A-1(3) and G.S. 89A-2(b) shall be limited only by the licensee possessing the requisite knowledge and experience to provide the service. Consistent with the North Carolina State Building Code a licensee shall not design any retaining wall greater than five vertical feet in height from the finished grade unless the licensee has the requisite knowledge and experience to determine the appropriate construction material and calculate the embedment, vertical load, backfill and other criteria.

Authority G.S. 89A-1; 89A-2.

SECTION .0300 - EXAMINATION AND LICENSING PROCEDURES

21 NCAC 26 .0303 LICENSE BY COMITY

(a) To assure that the requirements of the other state are at least equivalent to those of this state, an applicant for a license by comity shall show education and experience equal to those required of applicants ~~residing in this State~~ who seek licensure by examination.

(b) An application for a license by comity shall be made on the on-line form provided by the Board available on the Board's website: www.ncbola.org and shall be accompanied by the fee.

(c) To be approved for a license by comity the applicant shall meet the following requirements:

- (1) Provide evidence of having successfully completed the written examination established by the CLARB or hold a certificate issued by the CLARB;
- (2) Provide certification from the proper official of any state having a landscape architectural licensure or registration act that the individual is currently certified, licensed, or registered and in good standing in that state;
- (3) Submit such additional information concerning the applicant's qualifications as may be requested by the Board; and
- (4) Submit examples of work upon request.

(d) In lieu of the requirements of Subparagraph (c)(1) of this Rule, an applicant for licensure by comity who was licensed prior to the adoption of a national written examination shall show proof of having met the requirements of ~~their~~ his or her licensing state at the time of their licensure.

Authority G.S. 89A-3.1(3); 89A-4(c).

21 NCAC 26 .0306 REINSTATEMENT AFTER REVOCATION

Any person whose ~~certificate of registration~~ license is revoked shall be reinstated at any time by majority vote of the Board if there is a finding that the cause for revocation no longer exists.

Authority G.S. 89A-3.1.

21 NCAC 26 .0308 DUTIES AND FUNCTIONS OF CONTINUING EDUCATION ADVISORY COMMITTEE (CEAC)

(a) CEAC members shall be reimbursed per diem and travel expenses for official meetings at rates equivalent to rates allowed for Board members.

(b) CEAC members shall serve at the discretion of the Board. The Board Chair shall appoint the CEAC Chair who shall serve at the discretion of the Board Chair.

(c) Each continuing education activity recommended for approval by the Board shall, in the opinion of a majority of the members of the CEAC, have a direct relationship to the practice of landscape architecture as defined in Chapter 89A of the General Statutes of North Carolina and contain elements that will enhance the health, safety, and welfare of the citizens of North Carolina served by North Carolina licensed landscape architects.

(d) The CEAC shall meet at least once during each three month quarter of the year and act on each course, seminar, webinar, session, or program submitted for its review ~~on the Board's Continuing Education Activity Approval form located on its website or available from the licensee's secure online profile through the licensee or provider's secure online profile.~~ The ~~CEAC~~ CEAC shall review submissions in accordance with Paragraph (c) of this Rule. Each program shall be recommended for approval, recommended for disapproval, or deferred for lack of information. Programs recommended for approval shall be accompanied by a brief statement of findings by the committee of how the program meets the criteria established by this Rule.

(e) An activity may be recommended for pre-approval by the CEAC before it actually occurs by following the same procedure for submission as utilized for post-activity approval.

Authority G.S. 89A-3.1(6); 89A-5.

21 NCAC 26 .0309 EXEMPTIONS AND EXTENSION OF TIME

(a) A ~~registrant~~ licensee shall be exempt from the continuing education requirements for any of the following reasons:

- (1) New ~~registrants~~ licensees by way of examination or comity for the current registration year.
- (2) A licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding 90 consecutive days in a year or as provided by G.S. 93B-15(b), whichever is greater.
- (3) A licensee experiencing physical disability or illness if supporting documentation is approved by the Board. Such documentation shall be in the form of a sworn statement by the ~~registrant~~, licensee, a statement from a physician, or

medical records which show that the disability or illness, prevented ~~registrant's~~ the licensee's participation in a course that the ~~registrant~~ licensee had enrolled, or prevented ~~registrant's~~ the licensee's participation in the continuing education program for at least 90 consecutive days in a year.

(4) A licensee with emeritus status from the Board.

(b) In order to return to active practice, ~~registrants~~ licensees who have received an exemption shall complete continuing education requirements for each exempted year, not to exceed two years.

(c) During a national or State declared state of emergency that restricts or prohibits a licensee from obtaining by active participation in Board approved continuing education, the Board may extend the compliance period if requested by the licensee up to 90 days beyond the effective period of the state of emergency. Any license renewed in reliance on this exemption shall be issued conditionally and shall automatically expire on the 90th day if compliance is not documented in the licensee's secure online profile by that date.

Authority G.S. 89A-3.1(6); 89A-5; 93B-15; Eff. March 1, 2015.

21 NCAC 26 .0310 REINSTATEMENT CRITERIA

(a) A former licensee may only apply for reinstatement pursuant to G.S. 89A-5 if he or she has earned all delinquent contact hours within the 12 months preceding the application. However, if the total number of contact hours required to become current exceeds 24, 30, then upon application, the Board shall determine the number of hours required.

(b) An application for reinstatement shall be made on the form provided by the Board on its ~~website, or by U.S. Mail if requested,~~ website: www.ncbola.org by checking the appropriate box for "reinstatement" and shall be accompanied by the fee.

Authority G.S. 89A-3.1(6); 89A-5.

21 NCAC 26 .0311 APPLICATIONS CONTINUING EDUCATION REQUESTS FOR APPROVAL

(a) Renewal applications require the completion of a continuing education form through the licensee's secure online profile specified outlining specifying credit claimed, claimed, which located on the licensee's secure online profile. The licensee shall report and supply sufficient detail ~~on the form~~ to permit audit verification, certify the ~~form~~ continuing education by signature, and submit ~~the form~~ with the license renewal application and the fee.

(b) The following schedule for submittal of hours shall apply:

- (1) Application for approval of continuing education shall be submitted ~~online or by paper application located on the Board's website or available from~~ through the licensee's secure online profile.
- (2) The deadline for submittal of an application shall be seven days prior to the regularly scheduled meeting of the CEAC.
- (3) ~~Activity forms~~ Renewal requests submitted after May 15th cannot be guaranteed approval within the license renewal year.

- (4) ~~Applications~~ Requests for approval of continuing education shall be completed in full and the answers to the essay questions contained in the application shall be in complete sentences, using proper grammar.
- (5) Administrative staff, the CEAC, and the Board may defer any ~~application request~~ deemed ~~unsatisfactory incomplete~~ and return it to the ~~registrant licensee~~ for further information or if the ~~application request~~ does not meet the requirements set forth in this Section. It is the responsibility of the licensee to submit sufficient information to satisfy the requirements of this Section.
- (6) Failure of a ~~registrant licensee~~ to complete the continuing education requirements, or failure to file a report of completed continuing education are grounds for denial of license ~~renewal and renewal~~, possible suspension of license, or denial of consideration for future license reinstatement.

Authority G.S. 89A-3.1(6); 89A-5.

21 NCAC 26 .0312 COMPLIANCE

(a) Compliance with annual continuing education requirements shall be determined through an audit process conducted by the Board. Determination of individuals to be audited shall be accomplished through a random selection process or as the result of information received or obtained by the Board that gives rise to the need for an audit. Licensees selected for auditing shall provide the Board with ~~the following documentation of the continuing education activities claimed for the renewal period:~~

- (1) ~~Attendance~~ attendance verification records in the form of transcripts, completion certificates, or other documents supporting evidence of ~~attendance; and attendance.~~
- (2) ~~Information regarding course content, instructors, and sponsoring organization, for activities presented by other than approved sponsors as defined in Rule .0313 of this Section.~~

(b) Attendance records shall be maintained by individual licensees for a period of three years for audit verification purposes.

Authority G.S. 89A-3.1(6); 89A-5.

21 NCAC 26 .0313 INDIVIDUAL LICENSES

(a) ~~License registration~~ A licensee shall be renewed on or before ~~the first day in July~~ June 30th of each year. No less than 30 days prior to the renewal date, the Board shall send a renewal reminder to each individual licensee. The licensee shall complete the current license renewal documentation required by the Board and found in the licensee's secure online profile. The licensee shall submit to the Board the completed license renewal documentation, along with the annual license renewal fee. The Board shall not accept incomplete renewal documentation. If the accompanying charge, draft, or check in the amount of the

renewal fee is dishonored by the landscape architect's drawee bank for any reason, the Board shall suspend the license until the renewal fee is paid. When the annual renewal has been completed according to the provisions of G.S. 89A-5 and Rule .0307 of this Section, the Board Executive shall approve renewal of the license for the current license year.

(b) If the Board has not received the annual renewal fee and completed renewal documentation, ~~on or before the first day of July~~ each year the license shall expire and be delinquent. The license may be renewed at any time within one year of being deemed delinquent, upon the ~~return of the completed completion of the renewal documentation, as found in the licensee's secure online profile, the process, payment of the~~ annual renewal fee and the late renewal fee, along with demonstration of compliance with Rule .0307 of this Section. After one year from the date of delinquency the license may no longer be renewed, but the licensee shall seek reinstatement. Reinstatement shall occur according to the provisions of G.S. 89A-5 and Rule .0301 of this Section.

(c) Renewal fees are non-refundable.

(d) Any individual who is currently licensed by and in good standing with the Board who is serving in the armed forces of the United States shall not be subject to late fees, suspension, or revocation for failure to renew licensure on or before ~~the first day of July~~ June 30th each year, provided that the individual has been granted an extension of time to file a tax return as set forth in G.S. 105-249.2. The licensee shall, however, comply with the continuing education requirement of Rule .0310 of this Section.

Authority G.S. 89A-5; 89A-6.

21 NCAC 26 .0314 CORPORATE PRACTICE OF LANDSCAPE ARCHITECTURE

(a) Prior to offering and rendering landscape architectural services as set forth in G.S. 89A and Rule .0206 of this Chapter, all corporations shall, submit an application for registration and must be granted registration by the Board. Application for registration to practice landscape architecture within the State of North Carolina shall be made ~~upon forms entitled "Application for Organization Certificate of Registration" on the appropriate application for organization certificate of registration for a corporation or a PLLC~~ provided by the Board on its website and include the required application fee. Certificates for corporate practice may be issued only under the provisions of G.S. Chapter 55B, except as provided in Paragraph (b) of this Rule and G.S. Chapter 57C.

(b) Applications for certificate of registration as exempt from the Professional Corporation Act under the provisions of G.S. 55B-15 shall be made ~~upon forms provided by the Board. Completed applications shall be~~ through the Board's website: www.ncbola.org accompanied by the corporate application fee. To be eligible as an exempt corporation under the provisions of G.S. 55B-15, the following conditions shall exist:

- (1) The corporation or limited liability company must have been incorporated or organized prior to June 5, 1969 and permitted by law to render professional services, or must be a corporate successor to such corporation or limited liability company as defined by G.S. 55B-15; or

- (2) The corporation or limited liability company must have been incorporated or organized prior to October 1, 1979 and must have been a bona fide firm engaged in the practice of landscape architecture and such services as may be ancillary thereto within the State of North Carolina prior to that date.

(c) Firm registration must be renewed on or before June 30th. If the Board has not received the annual renewal fee and completed application on or before June 30th, the firm license shall expire and be delinquent. No less than 30 days prior to the renewal date, the Board shall send a notice of renewal to each registered firm. The firm shall designate a firm manager to complete the renewal documentation required by the Board. The Board shall not accept incomplete renewal documentation. Renewal documentation shall be accompanied by the renewal fee. If the accompanying payment in the amount of the renewal fee is dishonored by the firm's drawee bank for any reason, the Board shall suspend the firm registration until the renewal fee is paid. When the annual renewal has been completed according to the provisions of G.S. 89A-5, the Board Executive shall approve renewal for the firm registration for the current renewal year. The firm ~~license~~ registration shall not be renewed until the individual landscape architect in responsible charge for the firm has completed the individual renewal process.

(d) Within one year of expiration, the firm ~~license~~ registration may be renewed at any time upon the return of the completed renewal documents, the annual renewal fee, and the late renewal fee. After one year from the date of expiration for non-payment of the annual renewal fee, the ~~licensee~~ registered firm shall not be eligible to seek ~~reinstatement~~, renewal, as set forth in G.S. 89A-5, and the Board may reinstate the firms' certificate of registration only as allowed by G.S. 89A-4.

(e) Renewal fees are non-refundable.

(f) ~~Each~~ A registered corporation ~~shall~~ may adopt a seal pursuant to Rule .0207 of this Chapter.

(g) In addition to the requirements and limitations of G.S. Chapter 55 and G.S. Chapter 55B, the firm name used by a landscape architectural corporation shall conform with Rule .0206 of this Chapter and be approved by the Board before being used. This Rule shall not prohibit the continued use of any firm name adopted in conformity with the General Statutes of North Carolina and the Board's rules in effect at the date of such adoption.

(h) Landscape architects may practice in this State through duly authorized limited liability companies only as provided under G.S. 57C-2-01(c). Any limited liability company that offers to practice or practices landscape architecture in this State shall comply with the same requirements applicable to professional corporations under Rules .0201, .0206, .0214, .0218 and .0219 of this Chapter.

Authority G.S. 55B-5; 55B-10; 55B-15; 89A-3.1(4).

21 NCAC 26 .0315 OUT-OF-STATE ENTITIES

(a) Landscape architectural entities from other states may be granted certificates of registration for practice in this State upon receipt by the Board of a completed application, fees, the submission of a certified copy of its corporate charter, or other corresponding documents, amended as may be necessary to

ensure compliance with all requirements of Chapter 55B, the Professional Corporation Act of the State of North Carolina, and the payment of the firm application fee. In addition to the other requirements as set out in G.S. ~~83A-8~~, 89A-2(a1), out-of-state (or "foreign") entities shall, prior to registration, receive from the Secretary of State of North Carolina a certificate of authority to do business within the State. A certificate for filing for a certificate of authority shall be obtained from the Board prior to submitting the application to the Secretary of State.

(b) An out-of-state entity may be permitted to practice landscape architecture within the State of North Carolina provided that it complies with G.S. 55B. If an out-of-state entity offers landscape architectural services, then it shall comply with requirements set forth in G.S. 89A. An out-of-state entity shall have at least one officer or director licensed in the State as a landscape architect. Two-thirds of the issued and outstanding shares of the out-of-state corporations shall be held by a landscape architect, architect, geologist, soil scientist, engineer, or land surveyor licensed to practice the profession in a jurisdiction of the United States. However, the entity shall designate at least one landscape architect who is licensed in the State of North Carolina to be in responsible charge for the entity's practice of landscape architecture within the State of North Carolina. Notwithstanding the requirements of this Rule, an individual landscape architect who is licensed under G.S. Chapter 89A, et seq., may practice as an individual.

(c) An out-of-state limited liability company may practice landscape architecture, if the limited liability company complies with G.S. Chapter 57C and at least one member and one manager or member/manager is licensed as a landscape architect, architect, geologist, soil scientist, engineer, or land surveyor to comply with Paragraph (a) of this Rule.

(d) An out of state limited liability partnership may practice landscape architecture, if the limited liability partnership complies with G.S. 59-84.2, and at least one partner is licensed in this State as an individual pursuant to Rule .0301 of this Section.

(e) If the Board has not received the annual firm renewal fee and completed application on or before June 30th, the firm registration shall expire and be deemed delinquent. The firm registration may be renewed at any time within one year upon the payment of the annual renewal fee and the late renewal fees. After one year from the date of expiration for non-payment of the annual renewal fee, the license shall be automatically revoked. The Board may reinstate the firm's certificate of registration, as allowed by Rule .0301 of this Section.

*History Note: Authority G.S. 55B-6; 83A-6; 89A-2(a1);
Eff. March 1, 2015.*

SECTION .0500 - BOARD DISCIPLINARY PROCEDURES

21 NCAC 26 .0510 COMPLAINTS AND DISCIPLINARY REVIEW PROCESS

(a) Any person may file a complaint against a licensed Landscape Architect for an alleged violation of G.S. Chapter 89A or 21 NCAC 26 on a form provided on the Board's website: www.ncbola.org which may also be requested from the Board staff.

(b) The complaint shall set forth the facts upon which the complaint is based and the complainant shall confirm he or she believes the facts stated are true and that he or she are prepared to prove them at a hearing. Supporting documents may be provided.

~~(a)(c)~~ Allegations or evidence of a violation of the Landscape Architecture Licensing Act or the rules in this Chapter shall be preliminarily reviewed by the Board Chair and legal counsel to the Board. Upon a determination that evidence of a violation exists, the matter shall be subject to Board investigation and may ultimately be subject to disciplinary action by the Board.

~~(b)(d)~~ An investigation shall be initiated by a written notice and explanation of the allegation being forwarded to the ~~person~~ licensee or entity against whom the charge is made and a response shall be requested of the ~~person~~ licensee or firm so charged within 30 days of receipt of said notice to show compliance with all ~~lawful~~ requirements for retention of the license. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt requested.

~~(c)(e)~~ In the discretion of the Board Chair, a field investigation may be performed.

~~(d)(f)~~ After additional evidence has been obtained, the Board Chair shall either:

- (1) recommend dismissal of the charge; or
- (2) refer the matter to the Disciplinary Review Committee.

~~(e)(g)~~ If the Board Chair recommends dismissal, the Chair shall give a summary report to the Board and a vote shall be called to dismiss the complaint. If the Board does not vote to dismiss the complaint, the matter shall be forwarded to the Disciplinary Review Committee for further consideration.

~~(f)(h)~~ The Disciplinary Review Committee shall be made up of a minimum of one member of the Board ~~and the~~ the Board ~~Chair,~~ Chair, and legal counsel to the Board.

~~(g)(i)~~ Upon review of the evidence, and further investigation if necessary, the Disciplinary Review Committee shall present to the Board a written recommendation that may include the following:

- (1) The charge be dismissed as unfounded or that the Board is without jurisdiction over the matter;
- (2) The charge is admitted as true, whereupon the Board may accept the admission of guilt by the ~~person~~ licensee or entity charged and discipline the ~~person~~ licensee or entity accordingly;
- (3) The Board may accept a proposed settlement negotiated in an effort to resolve the alleged violations; or
- (4) The charge be presented to the full Board for a hearing and determination of sanctions by the Board in accordance with the substantive and procedural requirements of the provisions of G.S. 150B, Article 3A.

~~(h)(j)~~ A consultant to the Disciplinary Review Committee shall be designated by the legal counsel of the Board if the Chair of the Disciplinary Review Committee determines that it needs assistance. The consultant shall be a currently licensed landscape architect selected from former Board members or other licensed professionals who are knowledgeable with the Board's processes and have expressed an interest in serving as a consultant. The consultant shall review all case materials and assist the

Disciplinary Review Committee in making a recommendation as to the merits of the case.

~~(i)(k)~~ At least 15 days written notice of the date of consideration by the Board of the recommendations of the Disciplinary Review Committee shall be given to the ~~person~~ licensee or entity against whom the charges have been brought and the person submitting the ~~charge.~~ complaint.

~~(j)(l)~~ When the Board issues a notice of hearing against ~~whom the licensee or entity the charges are brought,~~ the ~~person~~ licensee or entity may request in writing a settlement conference to pursue resolution of the issue(s) through informal procedures. If, after the completion of a settlement conference, the person or entity and the Board's Disciplinary Review Committee do not agree to a resolution of the dispute for the full Board's consideration, the original disciplinary review process shall commence. During the course of the settlement conference, no sworn testimony shall be taken.

Authority G.S. 89A-3.1(7),(8),(9); 89A-7.

TITLE 25 – OFFICE OF STATE HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Human Resources Commission intends to amend the rule cited as 25 NCAC 01C .0405 with changes from the proposed text noticed in the Register, Volume 35 Issue 4.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://oshr.nc.gov/about-oshr/state-hr-commission/proposed-rulemaking>

Proposed Effective Date: *November 1, 2021*

Public Hearing:

Date: *July 30, 2021*

Time: *2:00 p.m.*

Location: *STATEOP Meeting_150 919 662-4657*

Reason for Proposed Action: *25 NCAC 01C .0405 - REPRINT DUE TO DUPLICATION WITH 25 NCAC 01C .0407. This Rule is being updated to include inmates, interns, and externs as exceptions to the mandatory break-in-service requirement for temporary employment. These three categories of temporary employees are already exempted in the Temporary Employment Policy and in practice. The updated Rule also more clearly defines each of exception categories. It also clarifies that the Rule applies to all temporaries employed by the state.*

Comments may be submitted to: *Denise H. Mazza, 116 West Jones Street, Raleigh, NC 27613; phone (984) 236-0823; email Denise.Mazza@nc.gov*

Comment period ends: *September 13, 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.

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 01 - OFFICE OF STATE HUMAN RESOURCES

SUBCHAPTER 01C – PERSONNEL ADMINISTRATION

SECTION .0400 - APPOINTMENT

25 NCAC 01C .0405 TEMPORARY APPOINTMENT

(a) A temporary appointment is an appointment ~~for a limited term to a permanent or temporary position, to fill a workforce need for a limited period of time.~~ Temporary employees may not be used to permanently expand the workforce beyond authorized levels. Temporary appointments shall not exceed 11 consecutive months, subject to the following exemptions:

- (1) Full-time Students, students shall be exempt from the 12 months maximum limit. "Students" include those defined as those undergraduate students taking at least 12 semester credit hours or graduate students taking at least nine semester 9 credit hours.
- (2) Retired employees, employees defined as those individuals drawing a retirement income or Social Security benefits may have temporary appointments for more than 12 months if and he or she signs having signed a statement that he or she is they are not available for, nor seeking permanent employment. "Retired employees" include those drawing a retirement income or social security benefits.
- (3) Inmates that are on a work-release program.
- (4) Interns defined as those students who regardless of the number of credit hours enrolled work to gain occupational experience for a short period of time, not to exceed three months.
- (5) Externs defined as those students who regardless of the number of credit hours enrolled are employed as part of a written agreement between the state and an academic

institution by which the student is paid and earns course credit.

(b) Employees with a temporary appointment shall not earn or accrue ~~leave, leave~~ or receive total state service credit, retirement credit, severance pay, or priority reemployment consideration.

(c) This Rule applies to all temporaries employed by the state.

Authority G.S. 126-4.

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Human Resources Commission intends to repeal the rule cited as 25 NCAC 01C .0407.

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://oshr.nc.gov/about-oshr/state-hr-commission/proposed-rulemaking>

Proposed Effective Date: *November 1, 2021*

Public Hearing:

Date: *July 30, 2021*

Time: *2:00 p.m.*

Location: *STATEOP Meeting_150 919 662-4657*

Reason for Proposed Action: *25 NCAC 01C .0407 - Deletes this rule as it is redundant of the text included in 25 NCAC 01C .0405.*

Comments may be submitted to: *Denise H. Mazza, 116 West Jones Street, Raleigh, NC 27613; phone (984) 236-0823; email Denise.Mazza@nc.gov*

Comment period ends: *September 13, 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.

PROPOSED RULES

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

**25 NCAC 01C .0407
APPOINTMENT**

TEMPORARY PART-TIME

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

Authority G.S. 126-4.

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

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule-making Agency: Wildlife Resources Commission

Rule Citation: 15A NCAC 10D .0103

Effective Date: August 1, 2021

Date Approved by the Rules Review Commission: June 17, 2021

Reason for Action: G.S. 150B-21.1(7)d, 150B-21.1(a)(7)b, and 150B-21.3(b2). Temporary amendments to this rule are necessary to establish hunting seasons and manage game lands. This rule was adopted by the Agency in February 2021 and was objected to. At this point, permanent rulemaking is contrary to public interest, as changes need to be in place before August 1, 2021 when the public is notified of the upcoming 2021-22 hunting seasons. To avoid confusing the regulated public, the agency is adopting this rule under temporary procedures.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0100 - GAME LANDS REGULATIONS

15A NCAC 10D .0103 HUNTING ON GAME LANDS

(a) Safety Requirements. No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands listed in this Rule.

(b) Traffic Requirements. No person shall park a vehicle on game lands in such a manner as to block traffic or gates, or otherwise prevent vehicles from using any roadway.

(c) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts, or wire to a tree on any game land designated herein. This prohibition does not apply to lag-screw steps or portable stands that are removed after use with no metal remaining in or attached to the tree.

(d) Time and Manner of Taking. Hunting is allowed on game lands only during the open season for game animals and game birds, unless hunting is allowed by permit. Individual game lands or parts thereof may be closed to hunting or limited to specific dates by this Chapter. Persons shall hunt only with weapons lawful for the open game animal or game bird seasons. ~~On managed waterfowl impoundments, persons shall:~~

- ~~(1) not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates;~~
- ~~(2) not hunt after 1:00 p.m. on such hunting dates;~~
- ~~(3) not set decoys out prior to 4:00 a.m.;~~
- ~~(4) remove decoys by 3:00 p.m. each day; and~~
- ~~(5) not operate any vessel or vehicle powered by an internal combustion engine.~~
- (1) On managed waterfowl impoundments, persons shall:
 - (A) not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates;
 - (B) not hunt after 1:00 p.m. on such hunting dates;
 - (C) not set decoys out prior to 4:00 a.m.;
 - (D) remove decoys by 3:00 p.m. each day; and
 - (E) not operate any vessel or vehicle powered by an internal combustion engine.
- (2) On Sundays, the following shall be prohibited:
 - (A) hunting with a firearm between 9:30 AM and 12:30 PM;
 - (B) the use of a firearm to take deer that are run or chased by dogs;
 - (C) hunting with a firearm within 500 yards of a place of religious worship, as defined by G.S. 14-54.1(b), or any accessory structure thereof, thereof, and
 - (D) hunting migratory game birds.

On designated youth waterfowl days, youths may hunt on managed waterfowl impoundments from ½ hour before sunrise to sunset. On designated veterans and military waterfowl days, veterans, as defined in 38 USC 101, and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty other than for training, with valid credentials may hunt on game lands and impoundments not designated as permit-only areas from ½ hour before sunrise to sunset. Restrictions ~~(1), (1)(A), (1)(C), (3), and (5)(1)(E)~~ in this Paragraph shall apply. On waterfowl impoundments that have a posted "Scouting-only Zone," trapping during the trapping season and waterfowl hunting on designated waterfowl hunting days are the only activities allowed on the portion of the impoundment outside of the posted "Scouting-only Zone." ~~No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal that has been so mutilated. No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the Commission or its agent. A decision to grant or deny authorization shall be made based on the best management practices for the wildlife species in~~

question. No person shall take or attempt to take any game birds or game animals attracted to such foods.

(e) Definitions:

- (1) For purposes of this Section, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, and New Year's Days within the federally-announced season.
- (2) For purposes of this Section, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, and New Year's Days, except for game lands in this Rule that specifically allow hunting on Tuesdays, Thursday, and Fridays. Falconry may also be practiced on Sundays. These "open days" also apply to either-sex deer hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.
- (3) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which any game may be taken on the open days of Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday during the open seasons.
- (4) For purposes of this Section, "Seven Days per Week Area" refers to a Game Land on which game may be taken during the open season on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, Saturdays, and Sundays.
- (5) For purposes of this Section, "Four Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Tuesdays, Thursdays, Saturdays, and Sundays. Raccoon and opossum hunting may continue until 7:00 a.m. on Wednesdays, 7:00 a.m. on Fridays, and 7:00 a.m. on Mondays.

(f) Hunting with Dogs on Game Lands. Deer shall not be taken with the use of dogs on game lands in counties or parts of counties where taking deer with dogs is prohibited as described in 15A NCAC 10B .0109.

(g) The listed seasons and restrictions apply in the following game lands:

- (1) ~~Allea~~ Yadkin River Game Land in Davidson, Davie, Montgomery, Rowan, and Stanly counties
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter in that portion in Montgomery county, and deer of either sex may be taken all the open days of the applicable Deer With

Visible Antlers Season in those portions in Davidson, Davie, Rowan, and Stanly counties.

- (C) On the Lick Creek Tract, deer and bear hunting is archery only.
- (2) Alligator River Game Land in Tyrrell County
 - (A) ~~Six~~ Seven Day per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first Saturday, Monday, and Tuesday of three hunting days during the November Bear Season and the second Saturday, Monday, and Tuesday first three hunting days during the second week of the December Bear Season.
- (3) Angola Bay Game Land in Duplin and Pender counties
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Target shooting is prohibited.
 - (D) Bear shall not be harvested on Sunday.
- (4) Bachelor Bay Game Land in Bertie, ~~Martin~~, and Washington counties
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (5) Bertie County Game Land in Bertie County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Target Shooting is prohibited.
- (6) Bladen Lakes State Forest Game Land in Bladen County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Except for blackpowder firearms, rifles larger than .22 caliber rimfire shall not be used.
 - (D) On the Singletary Lake Tract, the use of dogs for hunting deer and bear is prohibited.
 - (E) Wild turkey hunting on the Singletary Lake Tract is by permit only.
 - (F) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.

- (G) The use of dogs for pursuing or taking foxes shall be prohibited from February 15 through August 1.
- (7) Brinkleyville Game Land in Halifax County
- (A) ~~Six~~ Seven Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) Horseback riding is prohibited.
- (D) Target Shooting is prohibited.
- (8) ~~Brunswick County Game Land in Brunswick County~~
- (A) ~~Hunting is by permit only.~~
- (B) ~~The use of dogs for hunting deer is prohibited.~~
- (9)(8) Buckhorn Game Land in Orange County
- (A) Hunting is by permit only.
- (B) Horseback riding is prohibited.
- (10)(9) Buckridge Game Land in Tyrrell County.
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear may only be taken the first Saturday, Monday, and Tuesday ~~three hunting days during~~ of the November Bear Season and the ~~first three hunting days of the second week~~ second Saturday, Monday, and Tuesday of the December Bear Season. ~~If any of these days falls on a Tuesday, Friday or Saturday, bear hunting is allowed on those days.~~
- (D) Target shooting is prohibited.
- (11)(10) Buffalo Cove Game Land in Caldwell and Wilkes Counties
- (A) ~~Six~~ Seven Days per Week Area
- (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving Day through the third Saturday after Thanksgiving. Deer of either sex may be taken with archery equipment on open days beginning the Saturday on or nearest September 10 to the third Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving Day. Deer with visible antlers may be taken with archery equipment the Monday immediately following the closing of the Deer With Visible Antlers Season, as described in this Part, through January 1. Deer of either sex may be taken with blackpowder firearms on open days beginning the Monday on or nearest October 1 through the Saturday of the second week thereafter.
- (C) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
- (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
- (12)(11) Bullard and Branch Hunting Preserve Game Land s in Robeson County
- (A) ~~Three~~ Four Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear shall not be harvested on Sunday.
- (13)(12) Butner - Falls of Neuse Game Land in Durham, Granville, and Wake counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) Waterfowl shall be taken only on:
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
- (iii) Tuesdays, Thursdays, and Saturdays of the applicable waterfowl seasons.
- On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.
- (D) Horseback riding is prohibited.
- (E) Target shooting is prohibited.
- (F) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.
- (G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.
- (H) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals. On designated bicycle riding areas, the use of bicycles is allowed from May 15 through August 31, and on Sundays only from September 1 through May 14.
- (I) Camping and the presence of campers and tents in designated Hunter

- Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.
- (J) Camping is allowed at any time in the designated Mountains-to-Sea Trail Camping Area and shall not exceed a maximum stay of two consecutive nights. Campfires are prohibited in this camping area.
- ~~(14)~~(13) Buxton Woods Game Land in Dare County:
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (C) Target shooting is prohibited.
- ~~(15)~~(14) Cape Fear River Wetlands Game Land in Pender County
- (A) ~~Six~~ Seven Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
- (D) The use of dogs for hunting deer is prohibited on the portion of the game land that is west of the Black River, north of Roan Island, east of Lyon Swamp Canal to Canetuck Road, and south of NC 210 to the Black River.
- (E) Target shooting is prohibited.
- (F) Bear shall not be harvested on Sunday.
- ~~(16)~~(15) Carteret County Game Land in Carteret County
- (A) ~~Six~~ Seven Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) The use of dogs for hunting deer is prohibited.
- (D) Bear hunting on the Salters Creek Tract is by permit only.
- (E) Bear shall not be harvested on Sunday.
- ~~(17)~~(16) R. Wayne Bailey-Caswell Game Land in Caswell County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Wednesday thereafter.
- (C) Horseback riding, including all equine species, is allowed seven days per week from May 16 through August 31, only during June, July, and August, and on Sundays only, September 1 through May 15, during the remainder of the year except
- during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic and on those gated roads and trails that are posted for equestrian use. People age 16 or older horseback riding on this game land shall possess a Game Lands license.
- (D) The area encompassed by the following roads is permit-only for all quail and woodcock hunting, and all bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR 1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783, east on SR 1783 to the intersection of NC 62, north on NC 62 to the intersection of SR 1736, east on SR 1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.
- (E) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.
- (F) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.
- (G) Target shooting is prohibited, except at the R. Wayne Bailey-Caswell Shooting Range.
- ~~(18)~~(17) Chatham Game Land in Chatham County
- (A) ~~Six~~ Seven Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) Wild turkey hunting is by permit only.
- (D) Horseback riding, including all equine species, is allowed seven days per week from May 16 through August 31, only during June, July, and August, and on Sundays only, September 1 through May 15, during the remainder of the year except
- during open turkey and deer seasons.
- (E) Target shooting is prohibited.
- ~~(19)~~(18) Chowan Game Land in Chowan County
- (A) ~~Six~~ Seven Days per Week Area
- (B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.
- (C) Bear shall not be harvested on Sunday.
- ~~(20)~~(19) Chowan Swamp Game Land in Bertie, Gates, and Hertford counties.

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear hunting is restricted to the first Saturday, Monday, and Tuesday ~~three hunting days during~~ of the November bear season and the second Saturday, Monday, and Tuesday ~~first three hunting days during the second week~~ of the December bear season except that portion of Chowan Swamp Game Land in Gates County that is east of Highway 158/13, south of Highway 158, west of Highway 32, and north of Catherine Creek and the Chowan River where the bear season is the same as the season dates for the Gates County bear season.
- (D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
- (E) Horseback riding is prohibited except during May 16 through August 31 and on Sundays only September 1 through May 15 on those roads that are open to vehicular traffic and on those gated roads and trails posted for equestrian use.
- (F) Target shooting is prohibited.
- ~~(21)~~(20) Cold Mountain Game Land in Haywood County
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
 - (C) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
- ~~(22)~~(21) Columbus County Game Land in Columbus County.
 - (A) ~~Three~~ Four Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Deer hunting on the Campbell Tract shall be by permit only.
- ~~(23)~~(22) Croatan Game Land in Carteret, Craven, and Jones counties
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) Beginning on the first open waterfowl day in October through the end of all waterfowl seasons, waterfowl hunting from designated Disabled Sportsmen blinds on the Catfish Lake Waterfowl Impoundment is by permit only.
- (E) Dove hunting is by permit only for the first two open days of dove season on posted areas. During the rest of dove season, no permit is required to hunt doves.
- (F) Bear shall not be harvested on Sunday.
- ~~(24)~~(23) Currituck Banks Game Land in Currituck County
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Permanent waterfowl blinds in Currituck Sound on these game lands shall be hunted by permit only from November 1 through the end of all waterfowl seasons.
 - (C) Licensed hunting guides may accompany the permitted individual or party provided the guides do not use a firearm.
 - (D) The boundary of the game land shall extend 5 yards from the edge of the marsh or shoreline.
 - (E) Dogs are allowed only for waterfowl hunting by permitted waterfowl hunters on the day of their hunt.
 - (F) No screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
 - (G) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers season.
 - (H) Bear shall not be harvested on Sunday.
- ~~(25)~~(24) Dan River Game Land in Rockingham County
 - (A) Three Days per Week Area
 - (B) Deer hunting is by permit only.
 - (C) Wild turkey hunting is by permit only.
 - (D) Horseback riding is prohibited except on those areas posted for equestrian use. People age 16 or older horseback riding on this game land must possess a Game Lands license.
 - (E) Target shooting is prohibited.
- ~~(26)~~(25) Dare Game Land in Dare and Hyde counties
 - (A) ~~Six~~ Seven Days per Week Area

- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (C) No hunting is allowed on posted parts of bombing range.
- (D) The use and training of dogs is prohibited from March 1 through June 30.
- ~~(27)~~(26) Dover Bay Game Land in Craven County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers season.
- ~~(28)~~(27) DuPont State Forest Game Lands in Henderson and Transylvania counties
 - (A) Hunting is by permit only.
 - (B) The training and use of dogs for hunting is prohibited except by special hunt permit holders during scheduled permit hunts.
- ~~(29)~~(28) Elk Knob Game Land in Watauga County
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- ~~(30)~~(29) Embro Game Land in Halifax and Warren counties
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Horseback riding is prohibited.
 - (D) Target Shooting is prohibited.
- ~~(31)~~(30) Goose Creek Game Land in Beaufort and Pamlico counties
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
 - (D) Beginning on the first open waterfowl season day in October through the end of all waterfowl seasons, waterfowl hunting is by permit only on the following waterfowl impoundments: Pamlico Point, Campbell Creek, Hunting Creek, Spring Creek, Smith Creek, and Hobucken.
- (E) On Pamlico Point and Campbell Creek Waterfowl Impoundments all activities, except waterfowl hunting on designated waterfowl hunting days and trapping during the trapping season, are restricted to the posted Scouting-only Zone during the period November 1 through March 15.
- (F) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
- (G) Hunting and vehicular access on the Parker Farm Tract is restricted from September 1 through January 1 and April 1 through May 15 to individuals that possess a valid hunting opportunity permit.
- (H) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting is prohibited on the Beaufort County portion north of NC 33 except for that portion east of Smith Creek and south of Campbell Creek.
- (I) Bear shall not be harvested on Sunday.
- ~~(32)~~(31) Green River Game Land in Henderson, and Polk counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited.
- ~~(33)~~(32) Green Swamp Game Land in Brunswick County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) On that portion north of Big Macedonia Road, east of Makatoka Road, south of Little Macedonia Road, and west of Green Swamp Road, hunting and trapping is by permit only.
 - (D) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting is prohibited on that portion of the game land that is north of Big Macedonia Road, east of Makatoka Road, south of Little Macedonia Road, and west of Green Swamp Road.
- ~~(34)~~(33) Gull Rock Game Land in Hyde County
 - (A) ~~Six~~ Seven Days per Week Area

- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl on posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons; and
 - (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl season.
 - (D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas designated and posted as camping areas.
 - (E) Bear may only be taken the first Saturday, Monday, and Tuesday of ~~three hunting days during~~ the November Bear Season and the second Saturday, Monday, and Tuesday ~~first three hunting days during the second week~~ of the December Bear Season, except for that portion designated as bear sanctuary.
- ~~(35)~~(34) Harris Game Land in Chatham, Harnett, and Wake counties
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Waterfowl shall be taken only on the following days:
 - (i) Tuesdays, Fridays, and Saturdays of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, and New Year's Days; and
 - (iii) the opening and closing days of the applicable waterfowl seasons.
 - (D) The use or construction of permanent hunting blinds shall be prohibited.
 - (E) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.
 - (F) Target shooting is prohibited.
 - (G) Horseback riding is prohibited.
- ~~(36)~~(35) Headwaters State Forest Game Land in Transylvania County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season
- ~~(37)~~(36) Hill Farm Game Land in Stokes County
- hunting and trapping is by permit only.
- ~~(38)~~(37) Holly Shelter Game Land in Pender County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
 - (D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas designated and posted as camping areas.
 - (E) On that portion north of the Bear Garden Road, west of Shaw Road to Baby Branch, east of the Northeast Cape Fear River, south of NC 53 and west of NC 50, deer hunting and bear hunting are permit only.
 - (F) The use of dogs for hunting deer and bear is prohibited:
 - (i) all open days on that portion of the game land that is south of Baby Branch extending west to Stag Park Road, west of Shaw Road, north of Meeks Road extending west to Stag Park Road and east of Stag Park Road; and
 - (ii) on Tuesdays, Thursdays, and Fridays, with the exception of Thanksgiving, Christmas, and New Year's days, and except for the area north of Bear Garden Road, west of Shaw Road to Baby Branch, east of the Northeast Cape Fear River, south of NC 53 and west of NC 50, where the use of dogs for deer and bear hunting is by permit only.
 - (G) Hunting and vehicular access on the Pender 4 Tract is restricted from September 1 to the last day of February and April 1 to May 15 to individuals that possess valid hunting opportunity permits, unless otherwise authorized by the Wildlife Resources Commission.

- (H) Hunters who possess a Disabled Access Permit may operate an All Terrain Vehicle on and within 100 yards of trails designated for Disabled Sportsman Access.
- (I) Target shooting is prohibited, except on the Holly Shelter Shooting Range.
- (J) Geocaching is restricted to closed days for taking bear, deer, turkey, and waterfowl.
- ~~(39)~~(38) Hyco Game land in Person County
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Target shooting is prohibited.
- ~~(40)~~(39) J. Morgan Futch Game Land in Tyrrell County
 - hunting and trapping is by permit only.
- ~~(41)~~(40) Johns River Game Land in Burke County
 - (A) Hunting is by permit only.
 - (B) During permitted deer hunts, deer of either sex may be taken by permit holders.
 - (C) Entry on posted waterfowl impoundments is prohibited October 1 through March 31, except by lawful waterfowl hunting permit holders and only on those days written on the permits.
 - (D) The use or construction of permanent hunting blinds is prohibited.
 - (E) Camping and the presence of campers and tents in designated Hunter Camping Areas is limited to August 31 through the last day of February and March 31 through May 14.
- ~~(42)~~(41) Jordan Game Land in Chatham, Durham, Orange, and Wake counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on:
 - (i) Mondays, Wednesdays, and Saturdays of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, and New Year's Days; and
 - (iii) the opening and closing days of the applicable waterfowl seasons.
 - (D) ~~Horseback riding, including all equine species, is prohibited except~~ Horseback riding, including all equine species, is prohibited except allowed only on those areas posted as American Tobacco Trail and other areas posted for equestrian use. Unless otherwise posted, horseback riding is permitted on posted portions of the American Tobacco Trail anytime the trail is open for use. On all other trails posted for equestrian use, horseback riding is allowed seven days per week from May 16 through August 31, only during June, July, and August, and on Sundays only from September 1 through May 15, the remainder of the year except during open turkey and deer seasons. People age 16 or older ~~must~~ shall obtain who ride horseback on trails occurring entirely within the game land boundaries shall possess a Game Lands license. license prior to engaging in horseback riding on any area other than the American Tobacco Trail.
- (E) Target shooting is prohibited.
- (F) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.
- (G) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals.
- ~~(43)~~(42) Juniper Creek Game Land in Brunswick and Columbus counties
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the Deer With Visible Antlers Season.
 - (C) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
 - (D) Bear shall not be harvested on Sunday.
- ~~(44)~~(43) Kerr Scott Game Land in Wilkes County
 - (A) Six Days per Week Area
 - (B) Use of centerfire rifles is prohibited.
 - (C) Use of blackpowder firearms, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season is prohibited.
 - (D) Tree stands shall not be left overnight; and no screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
 - (E) Deer of either sex may be taken on all open days of the applicable Deer With Visible Antlers season.
 - (F) Hunting on posted waterfowl impoundments is by permit only.
 - (G) The use of firearms for hunting wild turkey is prohibited.

- ~~(45)~~(44) Lantern Acres Game Land in Tyrrell and Washington counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Wild turkey hunting is by permit only.
 - (D) The use of dogs for hunting deer on the Godley Tract is prohibited.
 - (E) Waterfowl hunting on posted waterfowl impoundments is by permit only.
- ~~(46)~~(45) Lee Game Land in Lee County
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Target shooting is prohibited.
- ~~(47)~~(46) Light Ground Pocosin Game Land in Pamlico County
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer with Visible Antlers Season.
 - (C) Bear shall not be harvested on Sunday.
- ~~(48)~~(47) Linwood Game Land in Davidson County
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken on all of the open days of the applicable Deer With Visible Antlers Season.
- ~~(49)~~(48) Lower Fishing Creek Game Land in Edgecombe and Halifax counties
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Horseback riding is prohibited.
 - (D) The use of dogs for hunting deer is prohibited.
 - (F) Target Shooting is prohibited.
- ~~(50)~~(49) Mayo Game Land in Person County
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Waterfowl shall be taken only on:
 - (i) Tuesdays, Thursdays, and Saturdays applicable waterfowl seasons;
 - (ii) Christmas and New Year's Days; and
 - (iii) the opening and closing days of the applicable waterfowl seasons.
 - (D) Target shooting is prohibited.
- ~~(51)~~(50) Mitchell River Game Land in Surry County

- (A) ~~Three~~ Four Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second ~~Wednesday~~ Tuesday thereafter.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31, and all horseback riding is prohibited from September 1 through May 15.
- ~~(52)~~(51) Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain, and Transylvania counties
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.
- ~~(53)~~(52) Needmore Game Land in Macon and Swain counties.
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31, and all horseback riding is prohibited from September 1 through May 15.
 - (C) On posted dove fields, dove hunting on the opening day of dove season is by permit only.
- ~~(54)~~(53) Neuse River Game Land in Craven County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Camping is allowed any time within 100 yards of the Neuse River on that portion of the game land that lies west of NC-43.
- ~~(55)~~(54) New Lake Game Land in Hyde and Tyrrell counties
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear shall not be harvested on Sunday.
- ~~(56)~~(55) Nicholson Creek Game Land in Hoke County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken with archery equipment on open hunting days from the Saturday on or nearest September 10 through the fourth Friday before Thanksgiving Day.
 - (C) Deer of either sex may be taken with blackpowder firearms on open hunting days beginning the fourth Saturday before Thanksgiving Day through the

- Wednesday of the second week thereafter.
- (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving Day through the third Saturday after Thanksgiving Day.
- (E) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season.
- (F) The use of dogs for hunting deer is prohibited.
- (G) Wild turkey hunting is by permit only.
- (H) On Lake Upchurch, the following activities are prohibited:
- (i) Operating any vessel or vehicle powered by an internal combustion engine; and
 - (ii) Swimming.
- (I) Target shooting is prohibited.
- ~~(57)~~(56) North River Game Land in Camden and Currituck counties
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
 - (D) Hunting on the posted waterfowl impoundment is by permit only.
 - ~~(E)~~ Bear shall not be harvested on Sunday.
- ~~(58)~~(57) Northwest River Marsh Game Land in Currituck County
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
 - ~~(D)~~ Bear shall not be harvested on Sunday.
- ~~(59)~~(58) Pee Dee River Game Land in Anson, Montgomery, Richmond, and Stanly counties
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Use of centerfire rifles is prohibited in that portion in Anson and Richmond counties North of US-74.
 - (D) Target shooting is prohibited.
 - (E) Horseback riding is allowed seven days per week from May 16 through August 31, and on Sundays only September 1 through May 15 only on roads opened to vehicular traffic and gated roads and trails posted for equestrian use. ~~only during the following times:~~
- ~~(i)~~ during June, July, and August; and
 - ~~(ii)~~ on Sundays during the other months or parts of months when deer and turkey seasons are closed.
- (F) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting shall be prohibited on that portion south of US-74.
- ~~(60)~~(59) Perkins Game Land in Davie County
- (A) ~~Three~~ Four Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers ~~Season.~~ Season through the second Tuesday thereafter.
 - (C) Horseback riding is prohibited from November 1 through January 1.
 - (D) Target Shooting is prohibited.
- ~~(61)~~(60) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga, and Yancey counties
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited on the Black Bear (McDowell County), Linville River (Burke County), and Little Tablerock Tracts (Avery, McDowell, and Mitchell counties).
 - (D) The use of bicycles shall be restricted to designated trails on the Linville River Tract (Burke County). Persons engaged in the act of hunting on the Linville River Tract during any open day of an applicable season for game birds or game animals shall be exempt from this restriction.
- ~~(62)~~(61) Pond Mountain Game Land in Ashe County
- (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
 - (C) Horseback riding is prohibited except on designated trails from May 16 through August 31 and Sundays from September 1 through October 31. All horseback riding is prohibited from November 1 through May 15.
- ~~(63)~~(62) Pungo River Game Land in Hyde County
- (A) Six Days per Week Area

- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(64)~~(63) Rendezvous Mountain State Forest Game Land in Wilkes County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Wednesday thereafter.
 - (C) Bear hunting is prohibited.
- ~~(65)~~(64) Rhodes Pond Game Land in Cumberland and Harnett counties
 - (A) Hunting is by permit only.
 - (B) Swimming is prohibited on the area.
- ~~(66)~~(65) Roanoke River Wetlands in Bertie, Halifax, Martin, and Northampton counties
 - (A) Hunting and trapping is by Permit only.
 - (B) Vehicles are prohibited on roads or trails except those operated on Commission business or by permit holders.
 - (C) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas, provided, however, that camping is allowed at any time within 100 yards of the Roanoke River on the state-owned portion of the game land.
 - (D) Target Shooting is prohibited.
- ~~(67)~~(66) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.
- ~~(68)~~(67) Robeson Game Land in Robeson County
 - (A) ~~Three~~ Four Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear shall not be harvested on Sunday.
- ~~(69)~~(68) Rockfish Creek Game Land in Hoke County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken with archery equipment on open hunting days from the Saturday on or nearest September 10 to the fourth Friday before Thanksgiving Day.
 - (C) Deer of either sex may be taken with blackpowder firearms on open hunting days beginning the fourth Saturday before Thanksgiving Day through the Wednesday of the second week thereafter.
 - (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving Day through the third Saturday after Thanksgiving Day.
- (E) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season.
- (F) The use of dogs for hunting deer is prohibited.
- (G) Wild turkey hunting is by permit only.
- (H) Taking fox squirrels is prohibited.
- (I) Target shooting is prohibited.
- ~~(70)~~(69) Rocky Run Game Land in Onslow County - Hunting is by permit only.
- ~~(74)~~(70) Sampson Game Land in Sampson County
 - (A) ~~Three~~ Four Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Target shooting is prohibited.
 - (D) Bear shall not be harvested on Sunday.
- ~~(72)~~(71) Sandhills Game Land in Hoke, Moore, Richmond, and Scotland counties
 - (A) Three Days per Week Area
 - (B) Hunting is prohibited on the J. Robert Gordon Field Trial Grounds from October 22 through March 31 except as follows:
 - (i) deer of either-sex may be taken with archery equipment on all the open days of the archery season through the fourth Friday before Thanksgiving Day; with blackpowder firearms and archery equipment all the open days of the blackpowder firearms season through the third Wednesday before Thanksgiving Day; and only deer with visible antlers may be taken with all legal weapons from the second Saturday before Thanksgiving Day through the Saturday following Thanksgiving Day;
 - (ii) dove may be taken all open days from the opening day of the dove season through the third Saturday thereafter;
 - (iii) squirrel (gray and fox) may be taken all the open days from the second Saturday before Thanksgiving Day through the Saturday following Thanksgiving Day;
 - (iv) rabbit may be taken all open days from the second Saturday preceding Thanksgiving Day through

- (v) the Saturday following Thanksgiving Day; waterfowl may be taken on open days during any waterfowl season;
 - (vi) wild animals and wild birds may be taken as part of a Disabled Sportsmen Program Permit Hunt; and
 - (vii) raccoon and opossum may be taken on open days from sunrise Monday on or nearest October 15 through the last day of February.
- (C) The Deer With Visible Antlers season is the open hunting days from the second Saturday before Thanksgiving Day through the third Saturday after Thanksgiving Day except on the J. Robert Gordon Field Trial Grounds.
- (D) The archery season is all open days from the Saturday on or nearest to Sept. 10 to the fourth Friday before Thanksgiving Day and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving Day through January 1. Deer of either sex may be taken with archery equipment on all open hunting days during the archery season, by permit during the Deer with Visible antlers season, and the blackpowder firearms season as stated in this Subparagraph. Only deer with visible antlers may be taken from the third Monday after Thanksgiving Day through January 1.
- (E) Blackpowder firearms season is all the open days from the fourth Saturday preceding Thanksgiving Day through the Wednesday of the second week thereafter and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving Day through January 1. Deer of either sex may be taken with blackpowder firearms on all open hunting days during the blackpowder firearms season and by permit during the Deer With Visible Antlers season. Only deer with visible antlers may be taken from the third Monday after Thanksgiving Day through January 1.
- (F) Either-sex deer hunting during the Deer With Visible Antlers Season is by permit only.
- (G) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.
- (H) Wild turkey hunting is by permit only.
- (I) Horseback riding on field trial grounds from October 22 through March 31 is prohibited unless participating in authorized field trials. Horseback riding is allowed on the remainder of the Sandhills Game Land seven days per week on roads that are open to vehicular traffic and gated roads and trails posted for equestrian use.
- (J) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.
- (K) Target shooting is prohibited, except at the John F. Lentz Hunter Education Complex.
- ~~(73)~~(72) Sandy Creek Game Land in Nash and Franklin Counties counties
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Horseback riding is prohibited.
 - (D) The use of dogs for hunting deer is prohibited.
 - (E) Target Shooting is prohibited.
- ~~(74)~~(73) Sandy Mush Game Land in Buncombe and Madison counties.
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer with Visible Antlers season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
 - (D) Dogs shall only be trained on Mondays, Wednesdays, and Saturdays and only as allowed in 15A NCAC 10D .0102(f).
 - (E) Dove hunting is by permit only from the opening day through the second Saturday of dove season.
 - (F) Target shooting is prohibited.
- ~~(75)~~(74) Second Creek Game Land in Rowan County-hunting is by permit only.
- ~~(76)~~(75) Shocco Creek Game Land in Franklin, Halifax, Nash, and Warren counties
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
 - (C) Horseback riding is prohibited.

- (D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
- (E) Target Shooting is prohibited.
- ~~(77)~~(76) South Mountains Game Land in Burke, Cleveland, McDowell, and Rutherford counties
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving Day through the third Saturday after Thanksgiving. Deer of either sex may be taken with archery equipment on open days beginning the Saturday on or nearest September 10 to the third Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving Day. Deer with visible antlers may be taken with archery equipment the Monday immediately following the closing of the Deer With Visible Antlers Season, as described in this Part, through January 1. Deer of either sex may be taken with blackpowder firearms on open days beginning the Monday on or nearest October 1 through the Saturday of the second week thereafter.
 - (C) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
 - (D) Horseback riding is prohibited except on designated trails during the following dates:
 - (i) January 2 through March 31;
 - (ii) May 16 through August 31;
 - (iii) Sundays only - April 1 through May 15; and
 - (iv) Sundays only - September 1 through January 1.
- ~~(78)~~(77) Stones Creek Game Land in Onslow County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The use of dogs for hunting deer is prohibited on Mondays, Wednesdays, and Fridays.
 - (D) Swimming in all lakes is prohibited.
 - (E) Waterfowl ~~on posted waterfowl impoundments~~ may be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (F) Target shooting is prohibited.
- (G) Geocaching is restricted to closed days for taking bear, deer, turkey, and waterfowl.
- ~~(79)~~(78) Suggs Mill Pond Game Land in Bladen and Cumberland counties
 - (A) Hunting and trapping is by permit only.
 - (B) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
 - (C) Entry is prohibited on scheduled hunt or trapping days except for:
 - (i) hunters or trappers holding special hunt or trapping permits; and
 - (ii) persons using Campground Road to access Suggs Mill Pond Lake at the dam.
 - (D) During the period of November 1 through January 31, except on Sundays, the use of vessels on Suggs Mill Pond Lake and Little Singletary Lake is limited to waterfowl hunting only by waterfowl hunters possessing a valid and current Hunting Opportunity Permit issued by the Wildlife Resources Commission pursuant to G.S. 113-264(d).
 - (E) During the period of November 1 through March 15, the use of vessels on managed waterfowl impoundments is limited to waterfowl hunting only by waterfowl hunters possessing a valid and current Hunting Opportunity Permit issued by the Wildlife Resources Commission pursuant to G.S. 113-264(d).
- ~~(80)~~(79) Sutton Lake Game Land in New Hanover and Brunswick counties
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
 - (C) Target shooting is prohibited.
 - ~~(D)~~ Bear shall not be harvested on Sunday.
- ~~(81)~~(80) Tar River Game Land in Edgecombe County
 - (A) Hunting is by permit only
 - (B) Target Shooting is prohibited

- ~~(82)~~(81) Texas Plantation Game Land in Tyrrell County
- hunting and trapping is by permit only.
- ~~(83)~~(82) Three Top Mountain Game Land in Ashe County
- (A) ~~Six~~ Seven Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (C) Horseback riding is prohibited.
- ~~(84)~~(83) Thurmond Chatham Game Land in Alleghany and Wilkes counties
- (A) ~~Six~~ Seven Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) Horseback riding is prohibited except on designated trails May 16 through August 31, and all horseback riding is prohibited from September 1 through May 15. People age 16 or older horseback riding on this game land shall possess a Game Lands license.
- (D) The maximum period of consecutive overnight camping at any designated campground is 14 days within any 30 day period from May 1 through August 31. After 14 consecutive days of camping all personal belongings must be removed from the game land.
- ~~(85)~~(84) Tillery game Game Land in Halifax County
- (A) ~~Six~~ Seven Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) Horseback riding is prohibited.
- (D) The use of dogs for hunting deer is prohibited.
- (E) Wild turkey hunting is by permit only.
- (F) Target Shooting is prohibited.
- ~~(86)~~(85) Toxaway Game Land in Jackson and Transylvania counties
- (A) ~~Six~~ Seven Days per Week Area
- (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
- ~~(87)~~(86) Uwharrie Game Land in Davidson, Montgomery, and Randolph counties
- (A) ~~Six~~ Seven Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer

- With Visible Antlers Season through the second Friday thereafter.
- (C) On the posted waterfowl impoundment, waterfowl may be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
- (iii) Mondays, Wednesdays and Saturdays of the applicable waterfowl seasons.
- (D) Target shooting is prohibited, except at the Flintlock Valley Shooting Range.
- ~~(88)~~(87) Vance Game Land in Vance County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) The use of dogs, centerfire rifles, and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.
- ~~(89)~~(88) Van Swamp Game Land in Beaufort and Washington counties
- (A) ~~Six~~ Seven Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear may only be taken the first Saturday, Monday, and Tuesday of three hunting days during the November Bear Season and the second Saturday, Monday, and Tuesday first three hunting days during the second week of the December Bear Season.
- ~~(90)~~(89) Voice of America Game Land in Beaufort County
- (A) Hunting and trapping is by permit only.
- (B) Target Shooting is prohibited.
- ~~(94)~~(90) White Oak River Game Land in Onslow County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons;

- (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) Beginning on the first open waterfowl season day in October through the end of all waterfowl seasons, a permit is required for hunting posted waterfowl impoundments.
- (E) The Huggins Tract and Morton Tracts have the following restrictions:
 - (i) access on Hargett Avenue and Sloan Farm Road requires a valid Hunting Opportunity Permit issued by the Wildlife Resources Commission pursuant to G.S. 113-264(d);
 - (ii) hunting is by permit only; and
 - (iii) the use of dogs for hunting deer is prohibited.
- (F) Wild turkey hunting is by permit only.
- (G) Target Shooting is prohibited.
- ~~(92)~~(91) Whitehall Plantation Game Land in Bladen and Pender counties
 - (A) Hunting and trapping is by permit only.
 - (B) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
 - (C) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting is prohibited on the Long Ridge Tract.
- ~~(93)~~(92) William H. Silver Game Land in Haywood County
 - (A) ~~Six~~ Seven Days per Week Area
 - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.

(h) On permitted type hunts, deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications shall be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and are nontransferable. A hunter making a kill shall validate the kill and report the kill to a wildlife cooperator agent or by phone.

(i) The following game lands and refuges are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:

- (1) Bertie, Halifax and Martin counties—Roanoke River Wetlands;

- (2) Bertie County—Roanoke River National Wildlife Refuge;
- (3) Bladen County—Suggs Mill Pond Game Lands;
- (4) Burke County—John's River Waterfowl Refuge;
- (5) Dare County—Dare Game Lands (Those parts of bombing range posted against hunting);
- (6) Dare County—Roanoke Sound Marshes Game Lands; and
- (7) Henderson and Transylvania counties—DuPont State Forest Game Lands.

(j) Access to Hunting Creek Swamp Waterfowl Refuge in Davie County requires written permission from the Commission. Written permission may be granted only when entry onto the Waterfowl Refuge will not compromise the primary purpose for establishing the Waterfowl Refuge and the person requesting entry can demonstrate a valid need or the person is a contractor or agent of the Commission conducting official business. "Valid need" includes issues of access to private property, scientific investigations, surveys, or other access to conduct activities in the public interest.

(k) Feral swine may be taken by licensed hunters during the open season for any game animal or game bird using any legal manner of take allowed during those seasons. Dogs may not be used to hunt feral swine except on game lands that allow the use of dogs for hunting deer or bear, and during the applicable deer or bear season.

(l) Youth Waterfowl Day. On the day declared by the Commission to be Youth Waterfowl Day, youths may hunt on any game land and on any impoundment without a special hunt permit, including permit-only areas, except where prohibited in Paragraph (h) of this Rule.

(m) Veterans and Military Waterfowl Days. On the day declared by the Commission to be Veterans and Military Waterfowl Days, veterans, as defined in 38 USC 101, and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty other than for training, with valid credentials may hunt on game lands and impoundments not designated as permit-only areas.

(n) Permit Hunt Opportunities for Disabled Sportsmen. The Commission may designate special hunts for participants of the disabled sportsman program by permit. The Commission may schedule these permit hunts during the closed season. Hunt dates and species to be taken shall be identified on each permit. If the hunt has a limited weapon choice, the allowed weapons shall be stated on each permit.

(o) As used in this Rule, horseback riding includes all equine species.

(p) When waterfowl hunting is authorized in this Rule on Christmas and New Years' Day and those days fall on Sundays, the open waterfowl hunting day shall be the following day.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305;

Eff. February 1, 1976;

Temporary Amendment Eff. October 3, 1991;

Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; September 1, 1995; July 1, 1995; September 1, 1994; July 1, 1994;

TEMPORARY RULES

*Temporary Amendment Eff. October 1, 1999; July 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2002; July 1, 2001;
Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and
04/18/02);
Temporary Amendment Eff. June 1, 2003;
Amended Eff. June 1, 2004 (this replaces the amendment
approved by RRC on July 17, 2003);
Amended Eff. August 1, 2018; August 1, 2017; August 1, 2016;
May 1, 2015; August 1, 2014; January 1, 2013; August 1, 2012;*

*August 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May
1, 2007; October 1, 2006; August 1, 2006; May 1, 2006; February
1, 2006; June 1, 2005; October 1, 2004;
Temporary Amendment Eff. August 1, 2018;
Amended Eff. August 1, 2020; August 1, 2019;
Temporary Amendment Eff. September 25, 2020;
Temporary Amendment Eff. August 1, 2021.*

This Section contains information for the meeting of the Rules Review Commission June 17, 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 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

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

Appointed by House

Anna Baird Choi (1st Vice Chair)
Andrew P. Atkins (2nd Vice Chair)
Paul Powell
Randy Overton
Barbara A. Jackson

COMMISSION COUNSEL

Amber Cronk May 984-236-1936
Amanda Reeder 984-236-1939

RULES REVIEW COMMISSION MEETING DATES

July 15, 2021 August 19, 2021
September 16, 2021 October 21, 2021

**RULES REVIEW COMMISSION MEETING
MINUTES
June 17, 2021**

The Rules Review Commission met on Thursday, June 17, 2021, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx. The Commissioners held a WebEx meeting in accordance with the provisions of G.S. 143-318.13.

Commissioners Barbara Jackson and Bob Rucho were present in the Commission Room. Commissioners present via WebEx were Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, and Randy Overton.

Staff members present were Julie Brincefield and Commission Counsel Amanda Reeder. Staff members Alex Burgos, and Commission Counsel Amber May and Ashley Snyder were present via WebEx.

The meeting was called to order at 9:01 a.m. with Chair Doran presiding.

The Chair read into the record the statement of economic interest for Barbara Jackson, which stated there was no actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on the Commission.

Justice Jackson fills the role of a public member on the Commission. She is an attorney/mediator and serves as a board member of the Conservatives for Criminal Justice Reform (CCJR). In addition, her spouse is an Assistant Deputy Commissioner with the North Carolina Department of Labor. Therefore, Justice Jackson has the potential for a conflict of interest and should exercise appropriate caution in the performance of her public duties, should issues involving her clients, CCJR or the North Carolina Department of Labor come before the Commission for official action.

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

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the May 20, 2021 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

FOLLOW UP MATTERS**Department of Environmental Quality**

01 NCAC 41D .0101 and .0302 – Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Coastal Resources Commission

15A NCAC 07J .0403, .0404, .0405, .0407, .0410; and 07K .0207 - The agency is addressing the objections from the May meeting. No action was required by the Commission.

Department of Transportation - Division of Motor Vehicles

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

19A NCAC 03C .0232 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Anna Baird Choi, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 7. Voting in the negative: None.

Department of Transportation - Division of Motor Vehicles

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

19A NCAC 03F .0201, .0202, .0203; and 03I .0307 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Anna Baird Choi, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 7. Voting in the negative: None.

Real Estate Commission

21 NCAC 58A .0104, .0105, .0110, .0114, .0120, .0503, .1601, .2202; 58H .0210, and .0303 –

21 NCAC 58A .0104, .1601, and .2202 were withdrawn at the request of the agency. No action was required by the Commission.

Upon the call of the Chair, the remaining rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Board of Environmental Health Specialist Examiners

21 NCAC 62 .0407 and .0411 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Building Code Council

Residential Code, N1101.13(R401.2) – Pursuant to G.S. 150B-21.12(d), the rule is being returned upon the written request of the agency. No further action will be taken by the Commission.

LOG OF FILINGS (PERMANENT RULES)**Child Care Commission**

Upon the call of the Chair, 10A NCAC 09 .2828 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Medical Care Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Private Protective Services Board

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None. 14B NCAC 16 .0807 was withdrawn at the request of the agency. No action was required by the Commission.

Environmental Management Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Board of Chiropractic Examiners

Prior to the review of the rules from the Board of Chiropractic Examiners, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm provides a varied scope of legal services to the Board, some of which includes advice on rulemaking.

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

Licensing Board for General Contractors

Prior to the review of the rules from the Licensing Board for General Contractors, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm provides a varied scope of legal services to the Board, some of which includes advice on rulemaking.

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

Landscape Contractors' Licensing Board

Prior to the review of the rules from the Landscape Contractors' Licensing Board, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm provides a varied scope of legal services to the Board, some of which includes advice on rulemaking.

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

LOG OF FILINGS (TEMPORARY RULES)**Wildlife Resources Commission**

Upon the call of the Chair, 15A NCAC 10D .0103 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Travis Narron, a member of the regulated public, addressed the Commission.

Tamara Zmuda with the Department of Justice, and representing the agency, addressed the Commission.

COMMISSION BUSINESS

Commissioners Bryan and Currin were appointed to review the OAH rules coming before the Commission at the July meeting.

The Chair thanked Commissioner Choi for her service on the Commission, as Commissioner Choi is not seeking reappointment to the Commission.

The meeting adjourned at 9:41 a.m.

The next regularly scheduled meeting of the Commission is Thursday, July 15, 2021, at 9:00 a.m.

RULES REVIEW COMMISSION

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

**Rules Review Commission Meeting June 17, 2021
Held Via WebEx**

Name	Agency
Dr. Joe Siragusa	Chiro Bd
Tichina Hamer	DHHS
Lorie Pugh	DHHS
Chuck Lewis	DHHS
Laura Rowe	Treasurer
Joelle Burleson	DENR
Tom Mitchell	DHHS
Makeda Harris	NCHA
Elizabeth Kountis	DENR
Patrick Knowlson	DENR
Dedra Alston	DHHS
Mark Lance	Congressional Sportsmen
Rahatul Ashique	DENR
Ashley Pekrul	WRC
Helen Landi	DOT
Jennifer Everett	DEQ
John Barkley	DOJ
Hannah Jernigan	DOT
Melissa Vuotto	REC
Rob Patchett	REC
Donna Coffey	DHHS
Nadine Pfeiffer	DSHR
Robert Glass	Good Manning
Travis Narron	
Carrie Ruhlman	WRC
Hannah Jernigan	DOT
Wally Ainsworth	DHHS
Joelle Burleson	Dental Bd
Dr. Joe Siragusa	Chiro Bd
Tichina Hamer	DHHS
Lorie Pugh	DHHS
Chuck Lewis	DHHS
Elizabeth Kountis	DENR

**List of Approved Permanent Rules
June 17, 2021 Meeting**

ENVIRONMENTAL QUALITY, DEPARTMENT OF

<u>Purpose and Organization</u>	01 NCAC	41D	.0101
<u>Fund Disbursements</u>	01 NCAC	41D	.0302

CHILD CARE COMMISSION

<u>Enhanced Program Standards for a Rated License for Family...</u>	10A NCAC	09	.2828
---	----------	----	-------

MEDICAL CARE COMMISSION

<u>Qualifications of Medication Staff</u>	10A NCAC	13F	.0403
<u>Test for Tuberculosis</u>	10A NCAC	13F	.0406
<u>Qualifications of Supervisor-In-Charge</u>	10A NCAC	13G	.0402
<u>Qualifications of Medication Staff</u>	10A NCAC	13G	.0403
<u>Test for Tuberculosis</u>	10A NCAC	13G	.0405
<u>Abbreviations</u>	10A NCAC	13P	.0101
<u>Definitions</u>	10A NCAC	13P	.0102
<u>Transport of Stretcher Bound Patients</u>	10A NCAC	13P	.0222
<u>Educational Programs</u>	10A NCAC	13P	.0501
<u>Initial Credentialing Requirements for EMR, EMT, AEMT, Pa...</u>	10A NCAC	13P	.0502
<u>Renewal of Credentials for EMR, AEMT, Paramedic, and EMD</u>	10A NCAC	13P	.0504
<u>Initial Credentialing Requirements for Level 1 EMS Instru...</u>	10A NCAC	13P	.0507
<u>Initial Credentialing Requirements for Level II EMS Instr...</u>	10A NCAC	13P	.0508
<u>Renewal of Credentials for Level I and Level II EMS Instr...</u>	10A NCAC	13P	.0510
<u>Reinstatement of Lapsed EMS Credential</u>	10A NCAC	13P	.0512
<u>Continuing Education EMS Educational Program Requirements</u>	10A NCAC	13P	.0601
<u>Basic and Advanced EMS Educational Institution Requirements</u>	10A NCAC	13P	.0602
<u>Renewal Designation Process</u>	10A NCAC	13P	.0905
<u>State Trauma System</u>	10A NCAC	13P	.1101
<u>Chemical Addiction or Abuse Recovery Program Requirements</u>	10A NCAC	13P	.1401
<u>Conditions for Restricted Practice with Limited Privileges</u>	10A NCAC	13P	.1403
<u>Reinstatement of an Unencumbered EMS Credential</u>	10A NCAC	13P	.1404
<u>Failure to Complete the Chemical Addiction or Abuse Recov...</u>	10A NCAC	13P	.1405
<u>EMS Educational Institutions</u>	10A NCAC	13P	.1505
<u>EMS Personnel Credentials</u>	10A NCAC	13P	.1507
<u>Procedures for Qualifying for an EMS Credential Following...</u>	10A NCAC	13P	.1511

PRIVATE PROTECTIVE SERVICES BOARD

<u>Reporting Requirements</u>	14B NCAC	16	.0110
<u>Involvement in Administrative Hearing</u>	14B NCAC	16	.0113
<u>Application for Licenses and Trainee Permits</u>	14B NCAC	16	.0201
<u>Renewal or Re-issue of Licenses and Trainee Permits</u>	14B NCAC	16	.0203
<u>Determination of Experience</u>	14B NCAC	16	.0204
<u>Reports</u>	14B NCAC	16	.0404
<u>Private Investigator's Use of a Badge</u>	14B NCAC	16	.0405
<u>P.S.E. Examination Requirements</u>	14B NCAC	16	.0602

<u>Application for Unarmed Security Guard Registration</u>	14B NCAC 16 .0701
<u>Minimum Standards for Unarmed Security Guard Registration</u>	14B NCAC 16 .0703
<u>Training Requirements for Unarmed Security Guards</u>	14B NCAC 16 .0707
<u>Trainer Name to be Submitted to Director</u>	14B NCAC 16 .0708
<u>Application/Armed Security Guard Firearm Registration Permit</u>	14B NCAC 16 .0801
<u>Concealed Weapons</u>	14B NCAC 16 .0808
<u>Application for Firearms Trainer Certificate</u>	14B NCAC 16 .0902
<u>Accreditation Standards</u>	14B NCAC 16 .1203
<u>Application for Unarmed Armored Car Service Guard Registr...</u>	14B NCAC 16 .1301
<u>Training Requirements for Armed Armored Car Service Guards</u>	14B NCAC 16 .1407

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Water Quality Management Plans</u>	15A NCAC 02B .0227
<u>Cape Fear River Basin</u>	15A NCAC 02B .0311
<u>Definitions</u>	15A NCAC 02D .1701
<u>Applicability</u>	15A NCAC 02D .1702
<u>Emission Standards</u>	15A NCAC 02D .1703
<u>Test Methods and Procedures</u>	15A NCAC 02D .1704
<u>Operational Standards</u>	15A NCAC 02D .1705
<u>Compliance Provisions</u>	15A NCAC 02D .1706
<u>Monitoring Provisions</u>	15A NCAC 02D .1707
<u>Reporting Requirements</u>	15A NCAC 02D .1708
<u>Recordkeeping Requirements</u>	15A NCAC 02D .1709
<u>Compliance Schedule</u>	15A NCAC 02D .1710

TRANSPORTATION - MOTOR VEHICLES, DIVISION OF

<u>Registration Information and Certified Records Fees</u>	19A NCAC 03C .0232
<u>Traffic Accident Summary</u>	19A NCAC 03F .0201
<u>Fatal Accident Reports</u>	19A NCAC 03F .0202
<u>Special Holiday Reports</u>	19A NCAC 03F .0203
<u>Courses of Instruction</u>	19A NCAC 03I .0307

CHIROPRACTIC EXAMINERS, BOARD OF

<u>Structure of Board</u>	21 NCAC 10 .0103
<u>North Carolina Examination</u>	21 NCAC 10 .0203
<u>Continuing Education Seminars</u>	21 NCAC 10 .0207
<u>Waiver</u>	21 NCAC 10 .0216

GENERAL CONTRACTORS, LICENSING BOARD FOR

<u>Definitions</u>	21 NCAC 12A .0201
<u>Permits and Inspections</u>	21 NCAC 12A .0212
<u>Renewal of License</u>	21 NCAC 12A .0503
<u>Waiver</u>	21 NCAC 12A .0607
<u>Attendance; Roster Reports and Certificates</u>	21 NCAC 12B .0204
<u>Course Requirements</u>	21 NCAC 12B .0301

LANDSCAPE CONTRACTORS' LICENSING BOARD

<u>Practice of Landscape Contracting; Display of License Number</u>	21 NCAC 28B .0103
<u>Maintain Current Information</u>	21 NCAC 28B .0204
<u>Continuing Education Units</u>	21 NCAC 28B .0402
<u>Continuing Education Records; Audit</u>	21 NCAC 28B .0403
<u>Turf</u>	21 NCAC 28B .0503
<u>Walls</u>	21 NCAC 28B .0508

REAL ESTATE COMMISSION

<u>Advertising</u>	21 NCAC 58A .0105
<u>Broker-In-Charge</u>	21 NCAC 58A .0110
<u>Residential Property and Owners' Association Disclosure S...</u>	21 NCAC 58A .0114
<u>Prohibited Acts</u>	21 NCAC 58A .0120
<u>License Renewal</u>	21 NCAC 58A .0503
<u>Denial, Withdrawal, or Termination of Education Provider ...</u>	21 NCAC 58H .0210
<u>Denial or Withdrawal of Instructor Approval</u>	21 NCAC 58H .0303

ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS, BOARD OF

<u>Renewal</u>	21 NCAC 62 .0407
<u>Specialized Training</u>	21 NCAC 62 .0411

LIST OF APPROVED TEMPORARY RULES
June 17, 2021 Meeting**WILDLIFE RESOURCES COMMISSION**

<u>Hunting on Game Lands</u>	15A NCAC 10D .0103
------------------------------	--------------------

CONTESTED CASE DECISIONS

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 984-236-1850.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
DONALD R. VAN DER VAART

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
Michael Byrne
Karlene Turrentine

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<u>Published</u>			
20	CPS	03025	5/21/2021	Jonathan E Blood	v.	NC Crime Victims Compensation Commission	Sutton
20	DOJ	04576	5/10/2021	Abraham Jeremiah McMillion	v.	NC Criminal Justice Education and Training Standards Commission	May
20	DOJ	04990	5/21/2021	Trashunda Mo'na Keyes	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
19	DST	02895; 02896; 02897; 02898; 02899; 02900; 03752	5/28/2021	Davidson County Board of Education; Henderson County Board of Education; Blue Ridge Community College Board of Trustees; Granville County Board of Education; Mitchell County Board of Education; Moore County Board of Education; Elkin City Schools Board of Education	v.	Retirement Systems Division Department of State Treasurer	Culpepper
19; 20	DST	03422; 03424; 03425; 03430; 03431; 03444; 03753; 03754;	5/28/2021	Wilkes County Board of Education on Behalf of The Wilkes County Schools; Johnston County Board of Education on Behalf of The	v.	NC Retirement Systems Division Office of State Treasurer; Retirement Systems Division Office of State Treasurer; Retirement Systems Division Office of State Treasurer; Retirement Systems Division Department of State Treasurer; Retirement Systems Division	Culpepper

CONTESTED CASE DECISIONS

		06275; 02876; 02877		Johnston County Schools; Union County Board of Education on Behalf of The Union County Schools; Clinton City Schools Board of Education; Wake County Board of Education; Chapel Hill-Carrboro Board of Education; Lincoln County Board of Education; Granville County Board of Education; Scotland County Board of Education; Madison County Board of Education; Swain County Board of Education		Department of State Treasurer; Retirement Systems Division Department of State Treasurer; Retirement Systems Division Department of State Treasurer; Retirement Systems Division Department of State Treasurer; Retirement Systems Division Department of State Treasurer; Retirement Systems Division Department of State Treasurer; NC Department of State Treasurer, Retirement Systems Division; NC Department of State Treasurer, Retirement Systems Division	
20	INS	04908	5/12/2021	Kimberly Jo Salisbury	v.	North Carolina State Health Plan	May
21	INS	00333	5/13/2021	Beth Anne Ulrich	v.	NC State Health Plan	Bawtinheimer
18	OSP	04894	5/26/2021	Iris S Brown	v.	New Hanover CC/DPS	Lassiter
				<u>Unpublished</u>			
19	CSE	05954	5/10/2021	Ramon Sepulveda	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Culpepper
20	CSE	04151	5/17/2021	Jack R Doughten	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
20	CSE	04294	5/11/2021	Nigel Kelly	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinheimer
20	CSE	04318	5/11/2021	Martin Delgado	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinheimer
20	CSE	04331	5/3/2021	Kevin E Hedgepeth	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
20	CSE	04332	5/3/2021	Kevin E Hedgepeth	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
20	CSE	04351	5/4/2021	Steven M Hunsinger	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
20	CSE	04392	5/12/2021	Justin Haley Freeman	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May

CONTESTED CASE DECISIONS

20	CSE	04395	5/20/2021	Jason Cooper	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04484	5/11/2021	Richard W Williams	v.	Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04496	5/11/2021	Daniel David Hayes III	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04497	5/11/2021	James Grant	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04510	5/5/2021	Salim H Laverpool	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04513	5/19/2021	Graciano Ramos-Hernandez	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Turrentine
20	CSE	04515	5/18/2021	Kenneth Foster	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04533	5/19/2021	Robert A Ball	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	04559	5/11/2021	Antonio Adams	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
20	CSE	04570	5/3/2021	Phillip G Covington	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
20	CSE	04601	5/21/2021	Richard E Copeland	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04606	5/5/2021	Robert Jenkins	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04612	5/20/2021	Darryl Adderly	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
20	CSE	04628	5/18/2021	Mour Mamadou Diop	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
20	CSE	04666	5/11/2021	Kevin G Landis	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04668	5/5/2021	Eric M Taylor Sr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
20	CSE	04691	5/10/2021	Juan R Edwards	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	04715	5/4/2021	Martin Cridge Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	04722	5/21/2021	Vincent A Lzediuno	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May

CONTESTED CASE DECISIONS

20	CSE	04777	5/28/2021	Persivia Collins	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	04992	5/3/2021	Teresa Myers	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinheimer
20	CSE	05080	5/7/2021	Trudy Ann Brown	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
21	CSE	00011	5/3/2021	Kathryn Edgcombe	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinheimer
21	CSE	01242	5/7/2021	Chris Newman Jr.	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
21	CSE	01298	5/24/2021	Kenneth Cox	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
21	DCS	01457	5/13/2021	Jessamy Hubbard	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinheimer
21	DHR	00418	5/5/2021	Hotel Indigo Carolos Rubio	v.	NC Department of Health and Human Services	Mann
21	DHR	00992	5/3/2021	Absolute Home & Community Services Inc	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification	Byrne
21	DHR	01470	5/12/2021	David Michael Kistler	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
21	INS	01385	5/12/2021	Megan E Gavin	v.	State Health Plan	Byrne
21	INS	01490	5/13/2021	Deyonta M Thacker	v.	North Carolina Department of State Treasurer	Malherbe
21	INS	01491	5/20/2021	Michael K Silver	v.	North Carolina Department of Treasurer	Malherbe
21	MIS	01190	4/16/2021; 5/10/2021	Shahsultan Jaffer	v.	Durham Police Department and Durham Civilian Review Board	Byrne
21	OSP	01614	5/14/2021	Tabitha C Moore	v.	Rutherford County Department of Social Services	Byrne