

NORTH CAROLINA REGISTER

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August 2, 2021

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

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2021 – December 2021

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
35:13	01/04/21	12/08/20	01/19/21	03/05/21	03/22/21	04/15/21	05/01/21	10/01/21
35:14	01/15/21	12/21/20	01/30/21	03/16/21	03/22/21	04/15/21	05/01/21	10/12/21
35:15	02/01/21	01/08/21	02/16/21	04/05/21	04/20/21	05/20/21	06/01/21	10/29/21
35:16	02/15/21	01/25/21	03/02/21	04/16/21	04/20/21	05/20/21	06/01/21	11/12/21
35:17	03/01/21	02/08/21	03/16/21	04/30/21	05/20/21	06/17/21	07/01/21	11/26/21
35:18	03/15/21	02/22/21	03/30/21	05/14/21	05/20/21	06/17/21	07/01/21	12/10/21
35:19	04/01/21	03/11/21	04/16/21	06/01/21	06/21/21	07/15/21	08/01/21	12/27/21
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
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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
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36:07	10/01/21	09/10/21	10/16/21	11/30/21	12/20/21	01/20/22	02/01/22	06/28/22
36:08	10/15/21	09/24/21	10/30/21	12/14/21	12/20/21	01/20/22	02/01/22	07/12/22
36:09	11/01/21	10/11/21	11/16/21	01/03/22	01/20/22	02/17/22	03/01/22	07/29/22
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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 30, 2021

EXECUTIVE ORDER NO. 222

**REESTABLISHING THE NORTH CAROLINA INTERAGENCY COUNCIL
FOR COORDINATING HOMELESSNESS PROGRAMS**

WHEREAS, according to the 2020 Annual Homeless Assessment Report to Congress, U.S. Department of Housing and Urban Development, 9,280 people experience homelessness in North Carolina on any given night including 6,756 individuals, 2,524 people in families with children, 485 unaccompanied homeless youth, 798 veterans, and 1,174 chronically homeless individuals; and

WHEREAS, of people experiencing homelessness in North Carolina, 72.4% are sheltered and 27.6% are unsheltered; and

WHEREAS, African-Americans are considerably overrepresented among the homeless population (51%) compared to the overall North Carolina population (22%), according to 2020 U.S. Department of Housing and Urban Development data and Census data; and

WHEREAS, ending homelessness is critical to racial justice and health equity in North Carolina; and

WHEREAS, according to the U.S. Department of Education, 28,877 North Carolina children and youths lack a fixed, regular, and adequate nighttime residence; and

WHEREAS, cost burden is one cause of homelessness; and

WHEREAS, according to the U.S. Department of Housing and Urban Development, American Communities Survey Data: Comprehensive Housing Affordability Strategy, 40% of North Carolina renters are low-income or extremely low-income and 73% of low-income renters pay at least 30% of total household income on rent (housing insecure) and 63% spend at least 50% of total household income on rent (extremely housing insecure); and

WHEREAS, homelessness denies adults, children and families their basic need for safety, stability and resiliency and causes trauma; and

WHEREAS, homelessness severely impacts health, mental health, child development, academic success, employment opportunities, financial security, and quality of life; and

WHEREAS, state and local agencies, non-profits and the business community provide programs and services to address issues related to homelessness; and

WHEREAS, the NC Early Childhood Action Plan sets targets for 2025 to: 1) decrease the percentage of children across North Carolina under age six (6) experiencing homelessness by 10%, and 2) decrease the number of children in kindergarten through third grade enrolled in North Carolina public schools who are experiencing homelessness by 10%; and

WHEREAS, making system changes to reduce homelessness requires a high degree of coordination and cooperation among federal, state and local governments, as well as private sector service providers, advocates, and non-profit service providers; and

WHEREAS, the reestablishment of a statewide coordinating council is an important and effective tool in supporting the state's goals to end homelessness.

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

Section 1. Establishment

The North Carolina Interagency Council for Coordinating Homelessness Programs (hereinafter the "Interagency Council") is hereby reestablished.

Section 2. Membership

The Interagency Council shall consist of members who shall be appointed by the Governor from the following state agencies and qualifying categories:

- i. The Secretary of the North Carolina Department of Commerce, or a designee.
- ii. The Secretary of the North Carolina Department of Administration, or a designee.
- iii. The Secretary of the North Carolina Department of Public Safety ("NCDPS"), or a designee.
- iv. The Director of North Carolina Emergency Management, or a designee.
- v. The Secretary of the North Carolina Department of Health and Human Service ("NCDHHS"), or a designee.
- vi. The Chief Deputy Secretary for Opportunity and Well-Being, NCDHHS, or a designee.
- vii. The Chief Deputy Secretary for Health, NCDHHS, or a designee.
- viii. The Deputy Secretary for Medicaid, NCDHHS, or a designee.
- ix. The Secretary of the North Carolina Department of Military and Veterans Affairs, or a designee.
- x. The State Budget Director of the Office of State Budget and Management ("OSBM"), or a designee.
- xi. The Director of the NC Pandemic Recovery Office, or a designee.
- xii. The Executive Director of the North Carolina Housing Finance Agency, or a designee.
- xiii. One member from the North Carolina Community College System.
- xiv. The Superintendent of the North Carolina Department of Public Instruction, or a designee.
- xv. One member that represents homeless Continuums of Care (CoC).
- xvi. One member that represents a hospital or health system.
- xvii. One member from local government.
- xviii. Three members from non-profit agencies that provide services to people experiencing homelessness or at risk of homelessness that represent emergency shelters, rapid rehousing agencies, victim service providers, permanent supportive housing providers, and faith-based service providers.
- xix. One member from the North Carolina Coalition to End Homelessness.
- xx. One member from the North Carolina Housing Coalition.
- xxi. One member with expertise in services for young children under age six in families experiencing homelessness.
- xxii. One member with expertise in services for public school students in families experiencing homelessness.
- xxiii. One member from the business community that develops affordable housing.
- xxiv. One member representing Public Housing Authorities.
- xxv. One member representing someone with lived experience of homelessness.
- xxvi. Two members from the North Carolina Senate.
- xxvii. Two members from the North Carolina House of Representatives.

The Governor shall appoint two Co-Chairpersons, one from NCDHHS and one from NCDPS that serve on the Interagency Council.

Section 3. Term of Membership

Members of the Interagency Council shall be appointed for a term of three (3) years and serve at the pleasure of the Governor. A vacancy occurring during a term of appointment will be filled by the Governor for the remainder of the unexpired term.

Section 4. Meetings

The Interagency Council shall meet at least two (2) times per year, at the request of the Chairs, or upon written request from at least five (5) of its members.

Section 5. Duties

The duties of the Interagency Council may include the following, as well as other duties that may be defined during the duration of this Executive Order:

- A. The Interagency Council will advise the Governor, his Cabinet, other state agencies and partners, on issues related to housing stabilization and services for persons that are homeless or at risk of homelessness and strategies to reduce and end homelessness.
- B. The Interagency Council will recommend and promote effective interagency collaboration and system integration, which may include advice on COVID-19 response and recovery efforts and coordination of state and federal funding.
- C. The Interagency Council will promote evidence-based practices to address the needs of adults, children, and families that are homeless or at risk of homelessness.
- D. The Interagency Council will review existing programs and policies related to homelessness or those at risk of homelessness and recommend improvements to such programs and policies to ensure that such services are provided efficiently and effectively.

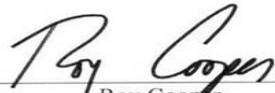
Section 6. Administration

NCDHHS and NCDPS shall provide administrative and staff support required by the Interagency Council. Administrative costs and the cost of member per diem, travel, and subsistence expenses shall be paid from state funds that are appropriated to NCDHHS and in accordance with state law and OSBM policies and regulations.

Section 7. Effect and Duration

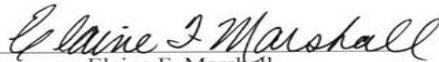
This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until December 31, 2024, pursuant to N.C. Gen. Stat. § 147-16.2 or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 30th 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

July 2, 2021

EXECUTIVE ORDER NO. 223

POSTSECONDARY EDUCATIONAL INSTITUTIONS' RESPONSIBILITIES REGARDING NAME, IMAGE, AND LIKENESS COMPENSATION OF STUDENT-ATHLETES

WHEREAS, the State of North Carolina's postsecondary educational institutions have had a longstanding tradition in competing in intercollegiate sports with great success; and

WHEREAS, while these state educational institutions have enjoyed the benefits of these successful athletic programs, until now, student-athletes have been precluded from receiving or pursuing compensation related to their names, images, and likenesses due to former rules and regulations promulgated by the National Collegiate Athletic Association ("NCAA") and other collegiate athletic associations; and

WHEREAS, until July 1, 2021, the NCAA has prohibited student-athletes from earning compensation for the use of their name, image, and likeness; and

WHEREAS, at least twenty-five (25) states have enacted laws or issued executive orders allowing for student-athletes to receive compensation for their name, image, and likeness, with as many as ten (10) laws and executive orders set to take effect as early as July 1, 2021; and

WHEREAS, the U.S. Supreme Court recently held in *NCAA v. Alston* that the NCAA could no longer enforce rules restricting certain education-related benefits that its members offered to student-athletes because those restrictions violated antitrust rules; and

WHEREAS, in light of both the Supreme Court's decision and the enactment of laws in other states allowing student-athletes to earn compensation for the use of their name, image, and likeness, the NCAA Board of Directors has subsequently allowed student-athletes to be compensated for use of their name, image, and likeness, effective July 1, 2021, pursuant to a set of interim rules; and

WHEREAS, permitting student-athletes to earn compensation from the use of their name, image, and likeness may have a substantial impact on the student-athletes competing in both revenue and non-revenue generating sports; and

WHEREAS, in particular, women's sports have been historically overlooked in both the professional and amateur sports field; and

WHEREAS, although female student-athletes receive significantly less traditional media exposure and opportunities than their male counterparts, their social media reach and network are comparable to that of male student-athletes, and thus have similar potential endorsement values; and

WHEREAS, it has been shown that allowing student-athletes to monetize their name, image, and likeness would allow female athletes, in particular, to take advantage of their potential endorsement value and as a result alleviate the gender imbalance in regard to the exposure and marketization of intercollegiate sports; and

WHEREAS, institutions' policies permitting student-athletes to obtain compensation for their name, image and likeness shall accordingly be consistent with Title IX of the Education Amendments of 1972; and

WHEREAS, basketball and football are the NCAA's two biggest sports with respect to generating revenue and media coverage; and

WHEREAS, student-athletes of color, who are more likely to come from lower-income backgrounds, are leading competitors in these two sports; and

WHEREAS, it is therefore likely that allowing student-athletes to receive compensation for their name, image, and likeness will be particularly beneficial to student-athletes of color and may help alleviate racial inequity in intercollegiate sports; and

WHEREAS, enacting immediate measures that would allow student-athletes to seek and receive compensation for commercial use of their name, image, and likeness will prevent the State of North Carolina from being at a competitive disadvantage in regard to enrollment at postsecondary educational institutions within the state.

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

Section 1. Institutions' General Responsibilities.

- A. Student-athletes enrolled in a postsecondary educational institution located in the State of North Carolina are allowed by the laws of this state to earn compensation, and obtain related representation, for use of their name, image, and likeness while enrolled at the institution, and such compensation and representation for their name, image, and likeness shall not affect a student-athlete's scholarship eligibility, subject to the following conditions:
 - i. Student-athletes and prospective student-athletes shall not enter into contracts or receive compensation for use of their name, image, and likeness as a direct inducement to enroll or continue enrollment at a particular institution for purposes of participating in that institution's athletic program or as compensation for performance, participation, or service in an intercollegiate sport.
 - ii. A student-athlete's authorized representative relating to any agreement for use of his or her name, image, and likeness rights must comply with Article 9 of Chapter 78C of the General Statutes (North Carolina Athlete Agent Act), and applicable federal law, including the Sports Agent Responsibility and Trust Act, 15 U.S.C. § 7801 et seq, and nothing in this Executive Order shall modify or supersede these laws.
 - iii. Post-secondary institutions may not compensate student-athletes for use of their name, image, and likeness.
- B. Post-secondary educational institutions may, but are not required to, impose the following regulations and limitations on student-athletes' ability to receive compensation for their name, image, and likeness:
 - i. An institution may prohibit student-athletes from receiving compensation or entering into agreements or contracts for use of their name, image, and likeness if such arrangements conflict with a contract of the institution;
 - ii. An institution may prohibit student-athletes from receiving compensation for use of their name, image, and likeness from supporting organizations of the institution including entities that are wholly or partially owned or controlled by the institution;
 - iii. An institution may impose reasonable limitations or exclusions on the categories of products and brands that a student-athlete may receive compensation for endorsing or otherwise enter into agreements or contracts for use of their name, image, and likeness to the extent that the institution reasonably determines that a product or brand is antithetical to the values of the institution or that association with the product or brand may negatively impact the image of the institution;

- iv. An institution may limit compensation regarding name, image, and likeness of a student-athlete during official team activities or institution-sponsored events;
 - v. An institution may require, and establish procedures for ascertaining, that a student-athlete's name, image, and likeness use is commensurate with fair market value;
 - vi. An institution may limit a student-athlete's compensation for their name, image, and likeness as it pertains to use of the institution's intellectual property, facilities, or other equipment and gear provided by the institution, including but not limited to uniforms, insignias, and logos. Nothing in this Executive Order shall establish or grant any right to any student-athlete the right to use the name, trademarks, service marks, symbols, logos or any other intellectual property that belong to an institution, athletic conference, or athletic association;
 - vii. An institution may promulgate reasonable rules and regulations regarding reporting and disclosure requirements as it relates to a student athlete's receipt of compensation, execution of a contract providing compensation, or intent to enter into a contract providing compensation, regarding use of their name, image, and likeness.
- C. Postsecondary educational institutions are encouraged to provide financial literacy and life-skill programs to their student-athletes, including educational workshops on time management and budgeting. Nothing in this Executive Order is intended to interfere with a postsecondary institution's ability to set academic standards or requirements, rules of conduct, disciplinary procedures, or other obligations for its student-athletes.
- D. Nothing in this Executive Order shall be construed to be beyond a recitation of the laws of the United States or the State of North Carolina, as they are subject to change.
- E. Nothing in this Executive Order is intended to waive any sovereign immunity of any state institution of higher education.

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, against the State of North Carolina, its agencies, departments, political subdivisions or other public or private entities, or any officers, employees, or agents thereof.

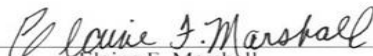
Section 3. Effective Date.

This Executive Order is effective immediately and shall remain in effect until superseded by state or federal law, or unless repealed or replaced by another Executive Order.

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


 Roy Cooper
 Governor

ATTEST:


 Elaine F. Marshall
 Secretary of State





NORTH CAROLINA
STATE BOARD OF ELECTIONS

Mailing Address:

P.O. Box 27255,
Raleigh, NC 27611

(919) 814-0700 or
(866) 522-4723

Fax: (919) 715-0135

Ms. Jinger Kelley, Treasurer
Committee to Elect Dan Forest
3103 Julian Glen Circle
Waxhaw, North Carolina 28173

June 25, 2021

Re: Request for an Advisory Opinion under N.C.G.S. § 163-278.23 regarding settlements pursuant to a statute

Dear Ms. Kelley,

Thank you for contacting our office. You asked how to properly report the proceeds of a settlement agreement entered into by the committee. As a proposed answer, you suggested that the proceeds be reported on form *CRO-1250 Outside Sources of Income*.

The settlement follows the North Carolina Supreme Court's decision in *Committee to Elect Dan Forest v. Employees Political Action Committee*, 376 N.C. 558 (2021). At issue in that case was North Carolina's "Stand By Your Ad" law, which was repealed by the North Carolina General Assembly in 2013. The now repealed statute created a cause of action and permitted the candidate's campaign committee to seek monetary damages against an opposing candidate or political committee that violated the statutory disclosure requirements. The North Carolina Supreme Court ultimately ruled in favor of the Committee to Elect Dan Forest and the parties entered into a settlement agreement that resolved any remaining questions about damages under the now repealed G.S. § 163-278.39A.

While authorizing an award of actual and treble damages, the "Stand By Your Ad" law did not address the treatment of those damages under Article 22A. However, there is nothing in the language of the now repealed law to indicate that damages were in any way limited by the contribution limits in G.S. § 163-278.13 or the source limits in G.S. § 163-278.15. In fact, the statute states "the price of actual damages shall be calculated as the total dollar amount of television and radio advertising time that was aired that the plaintiff candidate correctly identifies as being in violation of the disclosure requirements. . ." N.C. Sess. Laws 1999-453. As a result, it is reasonable to conclude that the General Assembly did not intend to limit damage awards beyond the language of G.S. § 163-278.39A, and a damage award or settlement under the now repealed law is not subject to contribution limits or source limits.

This is not the only source of funds the Campaign Finance Division has historically excluded from contribution limits and source limits. The Division has

excluded interest earned on bank accounts from financial institutions in the ordinary course of business.

That said, G.S. § 163-278.11, titled “contents of treasurer’s statement of receipts and expenditures,” requires a treasurer to disclose contributions received by a committee regardless of whether a given contribution is subject to G.S. 163-278.13 or G.S. 163-278.15. Any transfer of funds to a candidate committee must be disclosed consistent with G.S. § 163-278.11.

Other receipts received by a candidate committee that have not been itemized on other forms are disclosed on the *CRO-1250 Other Receipt Sources*. Specifically, this is where interest earned on bank accounts is reported. This is also the form used to disclose contributions from qualifying nonprofits under the exception to the prohibition on corporate contributions in G.S. 163-278.19(h). Given the that these contributions may stem from a corporation, or exceed contribution limits, it would be appropriate for the settlement to be disclosed on this form. In making the required disclosure, the treasurer should note in box 4.c. that the transfer of funds results from a settlement agreement between the candidate committee and contributor.

The opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and North Carolina Administrative Code.

Sincerely,



Karen Brinson Bell
Executive Director
North Carolina State Board of Elections

Cc: Molly Masich, Codifier of Rules



May 10, 2021

NC State Board Of Elections
P.O. Box 27255
Raleigh, NC 27611

Attn: Karen Brinson Bell
Executive Director
North Carolina State Board of Elections

RE: Request for Written Advisory Opinion

Dear Ms. Bell

As you may be aware, the Committee to Elect Dan Forest was involved as a plaintiff in a legal dispute stemming from certain advertisements opposing Dan Forest's election for Lieutenant Governor in 2012. After a lengthy legal process, the North Carolina Supreme Court ruled in favor of the Committee to Elect Dan Forest. For a full background on the legal proceedings, I would refer you to the Supreme Court's decision in *Committee to Elect Dan Forest v. Employees Political Action Committee*, 376 N.C. 558 (2021). Following the Supreme Court's unanimous ruling in the Committee's favor, the parties to the lawsuit reached a settlement consistent with N.C. Gen. Stat. § 163-278.39A (now repealed, but in effect at all times relevant to the lawsuit).

Because these funds are not contributions, but rather funds which result from a lawsuit settlement pursuant to a statute, the Committee to Elect Dan Forest requests your advice on how to properly report the proceeds received by the Committee. It would appear the correct answer would be to report it on Form CRO-1250 as "Outside Sources of Income," but given the unique nature of this situation we are requesting a written advisory opinion from you.

Sincerely,

Jinger Kelley
Treasurer

PO Box 471845 Charlotte NC 28247

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 14B – DEPARTMENT OF PUBLIC SAFETY

CHAPTER 16 - PRIVATE PROTECTIVE SERVICES BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Private Protective Services Board intends to amend the rules cited as 14B NCAC 16 .0201, .0806, .0904, .1202, and .1203.

SECTION .0200 - LICENSES: TRAINEE PERMITS

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncdps.gov/dps-services/pernits-licenses/private-protective-services-board>

14B NCAC 16 .0201 APPLICATION FOR LICENSE AND TRAINEE PERMITS

(a) Each applicant for a license or trainee permit shall submit an online application on the website provided by the Board. The online application shall be accompanied by:

Proposed Effective Date: December 1, 2021

Public Hearing:

Date: August 17, 2021

Time: 2:00 p.m.

Location: 3101 Industrial Drive, Suite 104, Raleigh, NC 27609

Reason for Proposed Action: *These amendments were temporary rules to ease the burden on licensees during the recent pandemic. They are being proposed as a permanent amendment to alleviate any similar burden for a future national or State declared emergency.*

Comments may be submitted to: Paul Sherwin, 3101 Industrial Drive, Suite 104, Raleigh, NC 27609; phone (919) 788-5320; fax (919) 715-0370; email paul.sherwin@ncdps.gov

Comment period ends: October 1, 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

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigation or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;
- (2) one head and shoulders digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (3) upload online a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
- (4) the applicant's non-refundable application fee, along with a four dollar (\$4.00) convenience fee and credit card transaction fee;
- (5) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board; and
- (6) an Equifax credit check run within 30 days of the license application submission date, which will be submitted to the Board's investigator during the application process.

(b) Applications for trainee permits shall be accompanied by a notarized statement on a form provided by the Board and signed by the applicant and his or her prospective supervisor, stating that the trainee applicant shall at all times work with and under the direct supervision of that supervisor and the form shall be uploaded as part of the online application process.

(c) Private investigator trainees applying for a license shall make available for inspection a log of experience on a form provided by the Board.

(d) Each applicant must upload evidence of high school graduation either by diploma, G.E.D. certificate, or other proof.

(e) Each applicant for a license shall meet personally with a Board investigator, the Screening Committee, the Director, or another Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74C and the administrative rules in this Chapter during the personal meeting. The applicant shall sign a form provided by the Board indicating that he or she has reviewed G.S. 74C and the administrative rules in this Chapter with the Board's representative. During a national or State declared state of emergency that restricts or prohibits travel, the personal meeting requirement may be waived if requested by the applicant in lieu of alternative means of communication.

Authority G.S. 74C-2; 74C-5; 74C-8; 74C-8.1; 74C-12.

SECTION .0800 - ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT

14B NCAC 16 .0806 RENEWAL OF ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT

(a) Each applicant for renewal of an armed security guard firearm registration permit identification card or his or her employer shall complete an online form on the website provided by the Board. This online form shall be submitted not more than 90 days prior to expiration of the applicant's current armed registration and shall be accompanied by:

- (1) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (2) upload online a statement of the results of a statewide criminal history search obtained by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 12 months;
- (3) the applicant's renewal fee, along with the four dollar (\$4.00) convenience fee and credit card transaction fee;
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board;
- (5) a statement signed by a certified trainer that the applicant has successfully completed the training requirements of Rule .0807 of this Section; and
- (6) a completed affidavit form and public notice statement form.

(b) The employer of each applicant for a registration renewal shall give the applicant a copy of the online application and a copy of the completed affidavit form to serve as a record of application for renewal and shall retain a copy of the application, including affidavit in the guard's personnel file in the employer's office.

(c) Members of the armed forces whose registration is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall receive that same extension of time to pay the registration renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

(d) A registered armed security guard may utilize a dedicated light system or gun-mounted light for requalification.

(e) During a national or State declared state of emergency that restricts or prohibits a registered armed security guard from requalifying, the Board may extend the deadline for requalification up to 60 days beyond the effective period of the state of emergency. Any registration renewed pursuant to this Paragraph shall be issued conditionally and shall automatically expire on the 60th day if requalification requirements have not been met.

Authority G.S. 74C-5; 74C-13.

SECTION .0900 – TRAINER CERTIFICATE

14B NCAC 16 .0904 RENEWAL OF A FIREARMS TRAINER CERTIFICATE

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

- (1) uploaded online a certificate of successful completion of a firearms trainer refresher course approved by the Board and the Secretary of Public Safety consisting of a minimum of eight hours of classroom and practical range training in safety and maintenance of the applicable firearm (i.e. handgun, shotgun, or rifle), range operations, control and safety procedures, and methods of firing. This training shall be completed within 180 days of the submission of the renewal application;
- (2) uploaded online a statement of the results of a criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 48 months;
- (3) the applicant's renewal fee, along with the four dollar (\$4.00) convenience fee and credit card transaction fee; and
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board.

(b) Members of the armed forces whose certification is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall receive that same extension of time to pay

the certification renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

(c) Any firearms trainer who fails to qualify with the minimum score during the refresher course shall not continue to instruct during the period between the failure to qualify and the expiration of his or her permit.

(d) The holder of a firearms trainer certificate may utilize a dedicated light system or gun mounted light for personal requalification.

(e) During a national or State declared state of emergency that restricts or prohibits a certified firearms trainer from requalifying, the Board may extend the deadline for requalification up to 60 days beyond the effective period of the state of emergency. Any certificate renewed pursuant to this Paragraph shall be issued conditionally and shall automatically expire on the 60th day if requalification requirements have not been met.

Authority G.S. 74C-5; 74C-8.1(a); 74C-13.

SECTION .1200 – CONTINUING EDUCATION

14B NCAC 16 .1202 REQUIRED CONTINUING EDUCATION HOURS

(a) Each licensee shall complete 12 credit hours of continuing education training during each two year renewal period.

(b) Credit shall be given only for classes that have been approved by the Board as set forth in Rule .1203 of this Section.

(c) A licensee who attends a complete meeting of a regularly scheduled meeting of the Board shall receive two credit hours for each meeting that the licensee attends, with credit being given for a maximum of two meetings per year with no more than four credit hours per year and eight credit hours per renewal period.

(d) No more than six hours of CEU credit shall be given during a renewal period for online courses. However, during a national or State declared state of emergency that restricts or prohibits a licensee from attending live continuing education courses or a meeting of the Board, all required hours may be obtained online and credit shall be given upon written request to the Director.

(e) No course offering CEU credits may be taken for credit more than one time during a renewal period.

Authority G.S. 74C-2; 74C-5; 74C-22.

14B NCAC 16 .1203 ACCREDITATION STANDARDS

(a) CE courses may obtain the approval of the Board by submitting the following information to the Board for consideration:

- (1) the nature and purpose of the course;
- (2) the course objectives or goals;
- (3) the outline of the course, including the number of training hours for each segment; and
- (4) the name of the instructor.

(b) To determine if a course will receive approval from the Board, the Board shall complete the following review:

- (1) The matter shall be referred to the Training and Education Committee for the appointment of a

sub-committee that shall review the course under consideration. The sub-committee shall consist of at least two industry members of the Training and Education Committee. Other members of the sub-committee may be appointed at the discretion of the Training and Education Committee Chairman.

(2) The sub-committee shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives or goals.

(3) When the sub-committee completes its review, it shall report to the Training and Education Committee. The Training and Education Committee shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives and goals. The Training and Education Committee shall then report the findings with a recommendation of acceptance or denial to the Private Protective Services Board.

(c) Upon receipt of the Training and Education Committee report, the Private Protective Services Board shall determine by majority vote if the course will be approved for continuing education credits. In making its determination, the Board shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives or goals.

(d) Each approved course shall remain an approved course for four years from the date of approval by the Board, unless the course content changes or the course instructor changes.

(e) Trainers and instructors shall receive continuing education credit of five hours for every actual teaching hour with an eight hour cap of continuing education credit every two years.

(f) Colleges, universities, trade schools, and other degree granting institutions shall be granted standing approval when the institutions are accredited, certified, or approved by the Department of Public Instruction or by a similar agency in another state and the course is related to law, criminal justice, security profession, finance, ethics, forensics, crime prevention, and investigation. Approval is one credit hour per contact hour not to exceed eight credit hours.

(g) Online courses shall be approved by the Board based on compliance with the standards set forth in Paragraph (a) of this Rule. ~~No more than six hours of CEU credit shall be given during a renewal period for online courses.~~

~~(h) No course offering CEU credits may be taken for credit more than one time during a renewal period.~~

Authority G.S. 74C-5; 74C-22.

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 Marine Fisheries Commission intends to adopt the rule cited as 15A NCAC 03L .0210, readopt with substantive changes the rules cited as 15A NCAC 03L .0207, .0301, .0302; 03M .0302, .0519; 18A .0134, .0136-.0139, .0144,

.0145, .0147-.0149, .0151-.0153, .0156-.0158, .0161, .0162, .0164-.0166, .0168, .0173-.0178, .0181-.0187, .0191, readopt without substantive changes the rules cited as 15A NCAC 03I .0108, .0115, .0122; 03J .0103, .0104, .0106, .0111, .0202, .0208, .0401, .0402, and repeal through readoption the rules cited as 15A NCAC 03M .0301, .0511, and .0516.

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://deq.nc.gov/mfc-proposed-rules>

Proposed Effective Date: April 1, 2022 except: 15A NCAC 03J .0103, .0104, .0106, .0111, .0202, .0208, .0402; 03L .0210, .0301; 03M .0302, .0519 – Pending Legislative Review

Public Hearing:

Date: August 18, 2021

Time: 6:00 p.m.

Location:

WebEx Events meeting link:

<https://ncdenrits.webex.com/ncdenrits/onstage/g.php?MTID=eda06363d0c775c9de22e7ff40585bbeb>

Event number: 161 284 4183

Event password: 1234

Event phone number: 1-415-655-0003

Reason for Proposed Action:

15A NCAC 03I .0108 OCEAN FISHING PIERS
15A NCAC 03I .0115 REPLACEMENT COSTS OF
MARINE AND ESTUARINE RESOURCES - FISH
15A NCAC 03I .0122 USER CONFLICT RESOLUTION
15A NCAC 03J .0103 GILL NETS, SEINES,
IDENTIFICATION, RESTRICTIONS
15A NCAC 03J .0104 TRAWL NETS
15A NCAC 03J .0106 CHANNEL NETS
15A NCAC 03J .0111 FYKE OR HOOP NETS
15A NCAC 03J .0202 ATLANTIC OCEAN
15A NCAC 03J .0208 NEW RIVER
15A NCAC 03J .0401 FISHING GEAR
15A NCAC 03J .0402 FISHING GEAR RESTRICTIONS

In accordance with G.S. 150B-21.3A, these general rules and gear rules are proposed for readoption with no changes.

15A NCAC 03L .0207 HORSESHOE CRABS
15A NCAC 03L .0301 AMERICAN LOBSTER (NORTHERN
LOBSTER)
15A NCAC 03L .0302 SPINY LOBSTER
15A NCAC 03M .0301 SPANISH AND KING MACKEREL
15A NCAC 03M .0302 PURSE GILL NET PROHIBITED
15A NCAC 03M .0511 BLUEFISH
15A NCAC 03M .0516 COBIA
15A NCAC 03M .0519 SHAD

In accordance with G.S. 150B-21.3A, these rules are proposed for readoption and repeal through readoption. The management and harvest restrictions of North Carolina's interjurisdictional fishery

species are implemented through a state fishery management plan and Marine Fisheries Commission rules that coordinate with relevant interstate and federal regulatory bodies. Over time, regulation of these species in North Carolina has shifted towards ongoing proclamations and rule suspensions by the Fisheries Director in order to keep pace with shifting interstate and federal regulations. The proposed amendments and repeals through readoption seek to formalize proclamation authority of several interjurisdictional species in rule and remove existing harvest requirements that are likely to become out of date. The proposed changes would conform with existing management practices by the Division of Marine Fisheries and would increase the division's efficiency in managing these species.

15A NCAC 03L .0210 REPACKING OF FOREIGN CRAB
MEAT PROHIBITED

15A NCAC 18A .0136 APPLICABILITY OF RULES

15A NCAC 18A .0173 REPACKING

In accordance with G.S. 150B-21.3A and following recent developments in North Carolina where foreign crab meat was fraudulently marketed and sold as domestic blue crab, the Marine Fisheries Commission developed rules to prohibit the repacking of foreign crab meat in the state to prevent future fraud and improve consumer confidence moving forward. One rule is proposed for adoption (15A NCAC 03L .0210) that prohibits the repacking of foreign crab meat in North Carolina into another container. This does not affect value-added crab products, such as crab cakes. Two existing rules for readoption (15A NCAC 18A .0136, .0173) are proposed with changes to conform to the new repacking rule.

15A NCAC 18A .0134 DEFINITIONS
15A NCAC 18A .0137 GENERAL REQUIREMENTS FOR
OPERATION

15A NCAC 18A .0138 SUPERVISION
15A NCAC 18A .0139 FACILITY FLOODING
15A NCAC 18A .0144 INSECT CONTROL
15A NCAC 18A .0145 RODENT AND ANIMAL CONTROL
15A NCAC 18A .0147 WATER SUPPLY
15A NCAC 18A .0148 ICE
15A NCAC 18A .0149 PLUMBING
15A NCAC 18A .0151 TOILETS
15A NCAC 18A .0152 SOLID WASTE
15A NCAC 18A .0153 PERSONAL HYGIENE
15A NCAC 18A .0156 EQUIPMENT AND UTENSIL
CONSTRUCTION

15A NCAC 18A .0157 FACILITY AND EQUIPMENT
SANITATION

15A NCAC 18A .0158 EQUIPMENT STORAGE
15A NCAC 18A .0161 CRUSTACEA COOKING
15A NCAC 18A .0162 COOKED CRUSTACEA AIR-COOL
15A NCAC 18A .0164 COOKED CRUSTACEA PICKING
15A NCAC 18A .0165 PACKING
15A NCAC 18A .0166 PICKED CRUSTACEA MEAT
REFRIGERATION

15A NCAC 18A .0168 SINGLE-SERVICE CONTAINERS
15A NCAC 18A .0174 PASTEURIZATION PROCESS
CONTROLS-THERMOMETERS

15A NCAC 18A .0175 PREPARATION OF CRUSTACEA MEAT FOR PASTEURIZATION
 15A NCAC 18A .0176 PASTEURIZATION OF CRUSTACEA MEAT
 15A NCAC 18A .0177 LABELING OF PASTEURIZED CRUSTACEA MEAT
 15A NCAC 18A .0178 INTERFACILITY PASTEURIZATION PROCEDURES
 15A NCAC 18A .0181 EMBARGO OR DISPOSAL OF COOKED CRUSTACEA OR CRUSTACEA MEAT
 15A NCAC 18A .0182 BACTERIOLOGICAL AND CONTAMINATION STANDARDS
 15A NCAC 18A .0183 ALTERNATIVE LABELING
 15A NCAC 18A .0184 THERMAL PROCESSING CONTROLS-THERMOMETERS
 15A NCAC 18A .0185 THERMAL PROCESSING OF CRUSTACEA AND CRUSTACEA MEAT
 15A NCAC 18A .0186 LABELING OF THERMALLY PROCESSED CRUSTACEA OR CRUSTACEA MEAT
 15A NCAC 18A .0187 INTERFACILITY THERMAL PROCESSING PROCEDURES
 15A NCAC 18A .0191 MONITORING RECORDS

In accordance with G.S. 150B-21.3A, these rules that relate to standards for commercial crustacea meat sanitation and processing procedures are proposed for readoption. All proposed changes are either intended to provide heightened clarity to rule language, or to conform rule language around crustacea meat storage, processing, and facility maintenance to that of ongoing practice by Division of Marine Fisheries staff and licensed seafood processors and dealers. The proposed readoptions also contain amendments that are of an administrative nature to update the rules. In all, the rules are proposed for readoption with no changes to division procedures.

Comments may be submitted to: Catherine Blum, P.O. Box 769, Morehead City, NC 28557
 Written comments may also be submitted via an online form available at <https://deq.nc.gov/mfc-proposed-rules>

Comment period ends: October 1, 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.

Rules automatically subject to legislative review: 15A NCAC 03J .0103, .0104, .0106, .0111, .0202, .0208, .0402; 03L .0210, .0301; 03M .0302, .0519

Statutory reference: S.L. 2019-198

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

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

CHAPTER 03 - MARINE FISHERIES

SUBCHAPTER 03I – GENERAL RULES

SECTION .0100 – GENERAL RULES

**15A NCAC 03I .0108 OCEAN FISHING PIERS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 03I .0115 REPLACEMENT COSTS OF
MARINE AND ESTUARINE RESOURCES - FISH
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 03I .0122 USER CONFLICT RESOLUTION
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

SUBCHAPTER 03J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES

SECTION .0100 - NET RULES, GENERAL

**15A NCAC 03J .0103 GILL NETS, SEINES,
IDENTIFICATION, RESTRICTIONS (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 03J .0104 TRAWL NETS (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 03J .0106 CHANNEL NETS (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 03J .0111 FYKE OR HOOP NETS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

SECTION .0200 - NET RULES, SPECIFIC AREAS

**15A NCAC 03J .0202 ATLANTIC OCEAN
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 03J .0208 NEW RIVER (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

SUBCHAPTER 03J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES

SECTION .0400 - FISHING GEAR

15A NCAC 03J .0401 FISHING GEAR (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 03J .0402 FISHING GEAR RESTRICTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SUBCHAPTER 03L – SHRIMPS, CRAB, AND LOBSTER

SECTION .0200 – CRABS

15A NCAC 03L .0207 HORSESHOE CRABS

(a) The annual (January through December) commercial quota for North Carolina for horseshoe crabs is established by the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab.

(b) The Fisheries Director may, by proclamation, impose any ~~or all~~ of the following restrictions on the taking of horseshoe crabs to maintain compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab: Crab or to implement state management measures:

- (1) Specify season;
- (2) Specify areas;
- (3) Specify quantity;
- (4) Specify means and methods; and
- (5) Specify size.
- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

(c) ~~Horseshoe crabs taken for biomedical use under a Horseshoe Crab Biomedical Use Permit are subject to this Rule.~~

Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52.

15A NCAC 03L .0210 REPACKING OF FOREIGN CRAB MEAT PROHIBITED

It shall be unlawful to repack foreign crab meat in North Carolina into another container. This Rule shall apply to all facilities and persons permitted in accordance with 15A NCAC 18A .0135. This Rule does not apply to crab meat that has been transformed into another product, such as crab cakes or other value-added products.

Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52.

SECTION .0300 – LOBSTER

15A NCAC 03L .0301 AMERICAN LOBSTER (NORTHERN LOBSTER)

(a) ~~It is shall be~~ unlawful to possess American lobster:

- (1) ~~with a carapace less than 3 3/8 inches or greater than 5 1/4 inches;~~
- (2)(1) ~~which that~~ has eggs or from which eggs have been artificially removed by any method;
- (3)(2) ~~meats, detached meats, detached tails or claws~~ claws, or any other part of a lobster that has been separated from the lobster;

(4)(3) ~~which that~~ has an outer shell which has been speared; or

(5)(4) that is a V-notched female lobster. A V-notched female lobster is any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/8 inch, with or without setal hairs. A V-notched female lobster is also any female lobster ~~which that~~ is mutilated in a manner ~~which that~~ would hide, ~~obscure~~ obscure, or obliterate such a ~~mark; or mark.~~ in quantities greater than 100 per day or 500 per trip for trips five days or longer taken by gear or methods other than traps.

~~(b) American lobster traps not constructed entirely of wood (excluding heading or parlor twine and the escape vent) must contain a ghost panel that meets the following specifications:~~

- (1) ~~the opening to be covered by the ghost panel shall be not less than 3 3/4 inches (9.53 cm) by 3 3/4 inches (9.53 cm);~~
- (2) ~~the panel must be constructed of, or fastened to the trap with, one of the following untreated materials: wood lath, cotton, hemp, sisal or jute twine not greater than 3/16 inch (0.48 cm) in diameter, or non-stainless, uncoated ferrous metal not greater than 3/32 inch (0.24 cm) in diameter;~~
- (3) ~~the door of the trap may serve as the ghost panel, if fastened with a material specified in this Section;~~
- (4) ~~the ghost panel must be located in the outer parlor(s) of the trap and not the bottom of the trap; and~~
- (5) ~~contains at least one rectangular escape vent per trap, 2 inches by 5 3/4 inches minimum size, or two circular escape vents per trap, with a minimum inside diameter of 2 5/8 inches.~~

(b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of American lobster to maintain compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for American Lobster or to implement state management measures:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

Authority G.S. 113-134; 113-182; ~~113-221;~~ 113-221.1; 143B-289.52.

15A NCAC 03L .0302 SPINY LOBSTER

It is unlawful to:

- (1) ~~Possess a egg bearing spiny lobster or a spiny lobster from which eggs have been stripped, scrubbed or removed;~~
- (2) ~~Possess spiny lobster with a carapace length less than 3 inches;~~

- (3) Possess aboard a vessel or land more than two spiny lobsters per person;
- (4) Possess aboard a vessel or land detached spiny lobster tails; or
- (5) Take spiny lobsters with a gaff hook, spear or similar device. Possession of a speared, pierced, or punctured spiny lobster is prima facie evidence that prohibited gear was used.

The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of spiny lobster to maintain compliance with the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and the South Atlantic or to implement state management measures:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52.

SUBCHAPTER 03M - FINFISH

SECTION .0300 - SPANISH AND KING MACKEREL

15A NCAC 03M .0301 SPANISH AND KING MACKEREL

(a) ~~Spanish Mackerel:~~

- (1) It is unlawful to possess Spanish mackerel less than 12 inches fork length.
- (2) It is unlawful to possess more than 15 Spanish mackerel per person per day taken for recreational purposes.
- (3) It is unlawful to possess more than 15 Spanish mackerel per person per day in the Atlantic Ocean beyond three miles in a commercial fishing operation except for persons holding a valid National Marine Fisheries Service Spanish Mackerel Commercial Vessel Permit.

(b) ~~King mackerel:~~

- (1) It is unlawful to possess king mackerel less than 24 inches fork length.
- (2) It is unlawful to possess more than three king mackerel per person per day taken for recreational purposes.
- (3) It is unlawful to possess more than three king mackerel per person per day in the Atlantic Ocean:
 - (A) by hook and line except for persons holding a valid National Marine Fisheries Service King Mackerel Commercial Vessel Permit; or
 - (B) between three miles and 200 miles from the State's mean low water mark in a commercial fishing operation except for persons holding a valid National Marine Fisheries Service

~~King Mackerel Commercial Vessel Permit.~~

- (4) It is unlawful to use gill nets in the Atlantic Ocean to take more than three king mackerel per person per day south of 34° 37.3000' N (Cape Lookout).

(c) Charter vessels or head boats that hold a valid National Marine Fisheries Service Coastal Migratory Pelagic (Charter Boat and Head Boat) permit must comply with the Spanish mackerel and king mackerel possession limits established in Subparagraphs (a)(2) and (b)(2) of this Rule when fishing with more than three persons (including the captain and mate) on board.

(d) It is unlawful to possess aboard or land from a vessel, or combination of vessels that form a single operation, more than 3,500 pounds of Spanish or king mackerel, in the aggregate, in any one day.

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

15A NCAC 03M .0302 PURSE GILL NET PROHIBITED

It is ~~shall be~~ unlawful to have a purse gill net on board a vessel when taking or landing Spanish or ~~King Mackerel~~. king mackerel.

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

SECTION .0500 – OTHER FINFISH

15A NCAC 03M .0511 BLUEFISH

It is unlawful to possess more than 15 bluefish per person per day for recreational purposes. Of these 15 bluefish, it is unlawful to possess more than five bluefish that are greater than 24 inches total length.

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

15A NCAC 03M .0516 COBIA

- (a) It is unlawful to possess cobia less than 33 inches fork length.
- (b) It is unlawful to possess more than two cobia per person per day.

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

15A NCAC 03M .0519 SHAD

- (a) It is unlawful to take American shad and hickory shad by any method except hook and line from April 15 through December 31.
- (b) It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook and line or for recreational purposes.
- (c) It is shall be unlawful to take or possess American shad from the Atlantic Ocean.

Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52.

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .0100 – HANDLING, PACKING, AND SHIPPING OF CRUSTACEA MEAT

15A NCAC 18A .0134 DEFINITIONS

The following definitions shall apply ~~throughout~~ to this Section; however, nothing in this Section shall be construed as expanding or restricting the definitions in G.S. 106-129 and G.S. 106-130:

- (1) "Adulterated" as used in G.S. 106-129 means the following:
 - (a) ~~Any any~~ cooked crustacea or crustacea meat that does not comply with ~~these Rules; the rules in this Section;~~
 - (b) ~~Any any~~ cooked crustacea or crustacea meat ~~which that~~ exceeds the bacteriological standards in Rule .0182 of this Section; ~~or~~
 - (c) ~~Any any~~ cooked crustacea or crustacea meat ~~which that~~ has been deemed to be an imminent ~~hazard; hazard.~~
- (2) "Code date" means the date conspicuously placed on the container to indicate the date that the product was packed.
- (3) "Cook" means to prepare or treat raw crustacea by heating.
- (4) "Critical control point" means a point, ~~step step,~~ or procedure in a food process at which a control can be ~~applied, applied~~ and a food safety hazard ~~can can,~~ as a ~~result result,~~ be prevented, ~~eliminated eliminated,~~ or reduced to acceptable levels.
- (5) "Critical limit" means the maximum or minimum value to which a physical, ~~biological biological,~~ or chemical parameter ~~must shall~~ be controlled at a critical control point to prevent, ~~eliminate eliminate,~~ or reduce to an acceptable level the occurrence of the identified food safety hazard.
- (6) "Crustacea meat" means the meat of crabs, lobster, ~~shrimp shrimp,~~ or crayfish.
- (7) "Division" means the Division of ~~Environmental Health or its authorized agent.~~ Marine Fisheries.
- (8) "Easily cleanable" means a surface that is readily accessible and made of such materials, has a finish, and is so fabricated that residues may be effectively removed by normal cleaning methods.
- (8)(9) "Food-contact surface" means the parts of equipment, including auxiliary equipment, ~~which that~~ may be in contact with the food being processed, or ~~which that~~ may drain into the portion of equipment with which food is in contact.
- (9)(10) "Food safety hazard" means any biological, ~~chemical chemical,~~ or physical property that may cause a food to be unsafe for human consumption.
- (10)(11) "Foreign" means any place or location outside the United States.
- (11)(12) "Fresh crustacea" means a live, ~~raw raw,~~ or frozen raw crab, lobster, ~~shrimp shrimp,~~ or crayfish ~~which that~~ shows no decomposition.
- (12)(13) "HACCP plan" means a written document that delineates the formal procedures a dealer follows to implement food safety controls.
- (13)(14) "Hazard analysis critical control point (HACCP)" means a system of inspection, ~~control control,~~ and monitoring measures initiated by a dealer to identify microbiological, ~~chemical chemical,~~ or physical food safety hazards ~~which that~~ are likely to occur in shellfish products produced by the dealer.
- (14)(15) "Imminent hazard" means a situation ~~which that~~ is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious physical adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken.
- (15)(16) "Internal temperature" means the temperature of the product as opposed to the ambient temperature.
- (16)(17) "Misbranded" as used in G.S. 106-130 means any container of cooked crustacea or crustacea meat ~~which that~~ is not labeled in compliance with ~~these Rules; the rules in this Section.~~
- (18) "Most probable number (MPN)" means a statistical estimate of the number of bacteria per unit volume and is determined from the number of positive results in a series of fermentation tubes.
- (17)(19) "Operating season" means the season of the year during which a crustacea product is processed.
- (18)(20) "Pasteurization" means the process of heating every particle of crustacea meat in a hermetically-sealed ~~401 by 301 one pound~~ container to a temperature of at least ~~185°F (85°C)~~ 185° F (85° C) and holding it continuously at or above this temperature for at least one minute at the geometric center of a container in properly operated equipment. ~~equipment being operated in compliance with the Process Validation Study Report.~~ The term includes any other process ~~which that~~ has been found equally effective by the Division.
- (19)(21) "Pasteurization date" means a code conspicuously placed on the container to indicate the date that the product was pasteurized.
- (20) "~~Person~~" means ~~an individual, corporation, company, association, partnership, unit of government or other legal entity.~~
- (22) "Process Validation Study Report" means a report of tests that shows a piece of equipment can produce time-temperature results as required by the rules of this Section, and the procedures required to achieve such results.

- ~~(21)~~(23) "Processing" means any of the following operations when carried out in conjunction with the cooking of crustacea or crustacea meat: receiving, refrigerating, air-cooling, picking, packing, repacking, thermal processing, or pasteurizing.
- ~~(22)~~(24) "Repacker" means a facility ~~which~~ that repacks cooked crustacea meat into other containers.
- ~~(23)~~(25) "Responsible person" means the individual present in a cooked crustacea facility who is the apparent supervisor of the cooked crustacea facility at the time of the inspection. If no individual is the apparent supervisor, then any employee is the responsible person.
- (26) "Retort" means a pressure vessel used to cook raw crustacea.
- ~~(24)~~(27) "Sanitize" means ~~a bactericidal treatment by a process which meets the temperature and chemical concentration levels in 15A NCAC 18A .2619, to treat food contact surfaces by a process that is effective in:~~
- ~~(a)~~ destroying vegetative cells of microorganisms of public health significance;
 - ~~(b)~~ substantially reducing the numbers of other undesirable microorganisms; and
 - ~~(c)~~ not adversely affecting the product or its safety for the consumer.
- (25) "~~Standardization report~~" means ~~a report of tests which show that a piece of equipment can produce time/temperature results as required by these Rules.~~
- ~~(26)~~(28) "Thermal processing" means the heating of previously cooked crustacea or crustacea meat to a desired temperature for a specified time at the geometric center of a container in properly operated equipment. equipment being operated in compliance with the Process Validation Study Report.

Authority G.S. 106-129; 106-130; ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0136 APPLICABILITY OF RULES

The ~~Rules~~ rules in this Section shall apply to the operation of all facilities and persons permitted in Rule .0135 of this Section and all other businesses and persons that buy, sell, ~~transport~~ transport, or ship cooked crustacea or crustacea meat ~~which~~ that has not been transformed into another product. ~~Foreign crustacea meat processed in North Carolina shall comply with all applicable Federal requirements.~~

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0137 GENERAL REQUIREMENTS FOR OPERATION

- (a) During the operating season the processing portion of the facility shall be used for no purpose other than the processing of cooked crustacea or crustacea meat.
- (b) Retail sales of cooked crustacea or crustacea meat shall not be made from any processing portion of the facility.
- (c) Accurate records of all purchases and sales of crustacea and crustacea meat shall be maintained for one year. The records shall be available for inspection by the ~~Division~~ Division of Marine Fisheries.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0138 SUPERVISION

- (a) The owner or responsible person shall supervise the processing operation and be responsible for compliance with the rules of this ~~Section~~ Section, including compliance with personal hygiene requirements as set forth in Rule .0153 of this Section.
- (b) No unauthorized persons shall be allowed in the facility during the periods of operation.
- ~~(c) The owner or responsible person shall observe employees daily to ensure compliance with Rule .0153 of this Section.~~

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0139 FACILITY FLOODING

- ~~(a)~~ If the facility floors are flooded, processing shall be discontinued until flood waters have receded and the facility and equipment are cleaned and sanitized.
- ~~(b)~~ Any cooked crustacea or crustacea meat ~~which~~ that may have been contaminated by flood waters shall be deemed adulterated and disposed of in accordance with G.S. ~~130A-21(c)~~ 113-221.4 and Rule .0181 of this Section.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 113-221.4; 143B-289.52.

15A NCAC 18A .0144 INSECT CONTROL

All outside openings shall be screened, provided with wind ~~curtains~~ curtains, or be provided with other methods to eliminate the entrance of insects. All screens shall be kept in good repair. All outside doors shall open outward and shall be self-closing. The use and storage of pesticides shall comply with all applicable State and ~~Federal~~ federal laws and rules.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0145 RODENT AND ANIMAL CONTROL

Measures shall be taken by the owner or responsible person to keep animals, fowl, rodents, and other vermin out of the facility. The storage and use of rodenticides shall comply with all applicable State and ~~Federal~~ federal laws and rules.

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0147 WATER SUPPLY

(a) The water supply used shall be in accordance with ~~15A NCAC 18A .1700; 15A NCAC 18A .1720 through .1728.~~

~~(b) A cooked crustacea facility using a non-community water supply shall be listed with the Public Water Supply Section, Division of Environmental Health.~~

~~(c)~~ (b) Water samples for bacteriological analysis shall be collected at least annually by the Division of Marine Fisheries and submitted to the Laboratory Division of the Department or another laboratory certified by the Department for potable water testing in the State of North Carolina for analysis.

~~(d)~~ (c) Cross-connections with unapproved water supplies are prohibited. Hot and cold running water under pressure shall be provided to food preparation, ~~utensils~~ utensils, and handwashing areas and any other areas in which water is required for cleaning. Running water under pressure shall be provided in sufficient quantity to carry out all food preparation, utensil washing, hand washing, ~~cleaning~~ cleaning, and other water-using operations.

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0148 ICE

(a) Ice shall be obtained from a water supply approved by the Division of Marine Fisheries pursuant to Rule .0147 of this Section and shall be stored and handled ~~in accordance with these Rules;~~ in a manner to prevent contamination.

(b) All equipment used in the handling of ice shall be used for no other purpose and shall be cleaned and sanitized at least once each day the facility is in operation.

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0149 PLUMBING

(a) Plumbing fixtures shall be located to facilitate the flow of processing activities and to prevent the splashing of water on food-contact surfaces or cooked crustacea and crustacea meat.

(b) Fixtures, ~~ducts~~ ducts, and pipes shall not be suspended over working areas.

(c) Handwash lavatories shall be located so that the supervisor can readily observe that employees wash and sanitize their hands before beginning work and after each interruption.

(d) Handwash lavatories shall be provided in the following locations:

- (1) ~~Packing~~ packing room or ~~area;~~ area;
- (2) ~~Toilet~~ toilet or lounge ~~area;~~ area; and
- (3) ~~Picking~~ picking room.

(e) At least one handwash lavatory shall be provided for every 20 employees among the first 100 employees and at least one handwash lavatory shall be provided for every 25 employees in excess of the first 100 employees.

(f) Additional lavatories required by Paragraph (e) of this Rule shall be located in the picking room.

(g) A container shall be located near each handwash lavatory in the picking room and packing room or area to sanitize hands in a

solution containing at least 100 parts per million (ppm) of available chlorine or other equally effective bactericide. A ~~suitable~~ testing method or equipment approved by the Division of Marine Fisheries shall be available and ~~regularly~~ regularly used to test chemical sanitizers to ~~insure~~ ensure minimum prescribed strengths.

(h) Soap and single service towels in protected dispensers, or other approved hand drying devices, shall be available near the handwash lavatories.

(i) All pre-cool rooms, picking rooms, packing rooms or areas, and cooking areas shall be provided with ~~hosebibs~~ hose bibs and wash down hoses. Storage racks shall be provided to keep the hoses elevated off the floor when not in use.

(j) An automatically regulated hot-water system shall be provided to furnish a sufficient volume of hot water with a temperature of at least 130° F (54.5° C) to carry out all processing operations.

(k) All handwash lavatories and sinks shall be equipped with mixing faucets.

(l) A three-compartment sink with drainboards, large enough to wash the largest utensils used in the facility, shall be located in the picking room near the delivery shelf. One three-compartment sink, with drainboards, shall be provided for every 50 employees or fraction thereof.

(m) The floor drains in coolers shall not be connected directly to a sewer in processing or repacking facilities constructed after October 1, 1992.

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0151 TOILETS

(a) Toilets shall be provided ~~by the owner or responsible person in the facility; however, privies may be substituted for toilets when the conditions in Paragraph (d) of this Rule are met.~~ facility.

(b) Toilet tissue shall be ~~provided.~~ provided by the owner or responsible person in a holder.

(c) Toilet room doors shall not open directly into processing areas of the facility and shall be self-closing.

~~(d) Only privies that meet the requirements of Section .1900 of this Subchapter and that were in place at a processing or repacking facility prior to October 1, 1992 may be used at the facility after October 1, 1992.~~

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0152 SOLID WASTE

(a) Cooked crustacea scrap and other putrescible wastes shall be removed from the premises at least daily. Other solid wastes shall be removed from the premises at least weekly.

(b) Scrap containers shall be removed from the picking room immediately after filling and placed in storage areas approved by the ~~Division.~~ Division of Marine Fisheries.

(c) Scrap containers shall be non-corrosive and cleaned at least daily.

(d) Scrap containers shall be cleaned in an area approved by the Division.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0153 PERSONAL HYGIENE

- (a) All employees shall wash their hands with soap and running water before beginning work and again after each interruption. Signs to this effect shall be posted in conspicuous places in the facility by the ~~owner~~, owner or responsible person.
- (b) All persons handling cooked crustacea or crustacea meat shall sanitize their hands before beginning work and again after each interruption.
- (c) All persons employed or engaged in the handling, ~~picking~~ picking, or packing of cooked crustacea or crustacea meat shall wear clean, washable outer clothing.
- (d) Employees shall not eat food, ~~drink nor~~ drink, or use tobacco in any form in the areas where cooked crustacea or crustacea meat are stored, ~~processed~~ processed, or handled.
- (e) Any person known to be a carrier of any disease which can be transmitted through the handling of cooked crustacea or crustacea meat or who has an infected wound or open lesion on any exposed portion of the body shall be prohibited from handling cooked crustacea or crustacea meat.
- (f) Hair restraints shall be worn by all employees who handle cooked crustacea or crustacea meat.
- (g) The arms of personnel who pick or pack cooked crustacea or crustacea meat shall be bare to the elbow or covered with an arm guard approved by the ~~Division~~, Division of Marine Fisheries.
- (h) Personnel who pick and pack cooked crustacea or crustacea meat shall have ~~clean~~ clean, short ~~fingernails~~, fingernails free from nail polish and shall not wear jewelry other than easily cleanable rings. The use of absorbent wraps or absorbent finger cots shall not be permitted.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0156 EQUIPMENT AND UTENSIL CONSTRUCTION

All processing equipment and utensils shall be smooth, easily cleanable, ~~durable~~ durable, and kept in good repair. The food-contact surfaces of equipment, ~~utensils~~ utensils, and processing machinery shall be easily accessible for cleaning, non-toxic, non-corrosive, ~~non-absorbent~~ non-absorbent, and free of open seams.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0157 FACILITY AND EQUIPMENT SANITATION

- (a) The walls and floors in the picking and packing areas shall be kept clean while operating and shall be sanitized at least daily and whenever there is evidence of contamination.
- (b) All food-contact surfaces shall be washed, ~~rinsed~~ rinsed, and sanitized prior to starting operation each day and whenever there is evidence of contamination.
- (c) Reusable picking containers and knives shall be washed, ~~rinsed~~ rinsed, and sanitized each time crustacea meat is delivered to the packing room.

(d) Sanitizing methods ~~are~~ shall be as follows:

- (1) ~~By~~ by steam in a steam chamber or box equipped with an indicating thermometer located in the coldest zone, ~~by~~ with exposure to a temperature of 170° F (77° C) for at least 15 minutes or to a temperature of 200° F (93° C) for at least five minutes.
- (2) ~~By~~ by immersion for at least one minute in the third compartment in clean hot water at a temperature of at least 170° F (77° C). A thermometer accurate to ~~32° F~~ 3° F (1.5° C) shall be available to the compartment. Where hot water is used for bactericidal treatment, a booster heater that maintains a water temperature of at least 170° F (77° C) in the third compartment at all times when utensils are being washed shall be provided. The heating device may be integral with the immersion compartment.
- (3) ~~By~~ by immersion for at least one minute in, or exposure for at least one minute to a constant flow of, a solution containing not less than 100 ppm chlorine residual. Utensils and equipment ~~which~~ that have to be washed in place will require washing, ~~rinsing~~ rinsing, and sanitizing.
- (4) ~~By~~ by other equivalent products and procedures approved in 21 CFR 178.1010 "Sanitizing solutions" from the "Food Service Sanitation Manual" published by the U.S. Food and Drug Administration. ~~21 CFR 178.1010 solutions~~, which is hereby incorporated by reference including any subsequent amendments and editions. ~~This material is available for inspection, and copies may be obtained at no cost, at the Shellfish Sanitation Branch, 3441 Arendell Street, P.O. Box 769, Morehead City, North Carolina 28557. A copy of the reference material can be found at~~ https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=17d119b223f9451322279713caa2e6ab&ty=HTML&h=L&mc=true&n=pt21.3.178&r=PART#se21.3.178_1010, at no cost. A suitable Division of Marine Fisheries approved testing method or equipment shall be available and regularly used to test chemical sanitizers to ~~insure~~ ensure minimum prescribed strengths.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0158 EQUIPMENT STORAGE

Equipment and utensils that have been cleaned and sanitized shall be stored in a manner to protect against contamination.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0161 CRUSTACEA COOKING

(a) The cooking area or room shall be under a roof located between the area for receiving raw crustacea and the air-cool room and shall be vented to assure the removal of steam.

(b) Crustacea shall be cooked in accordance with the following:

- (1) Crabs shall be cooked under steam pressure until the internal temperature of the center-most crab reaches 235° F (112.8° C). Temperature shall be measured with an accurate, indicating thermometer having a range of 170-270° F (77-132° C).
- (2) Other crustacea shall be cooked until the internal temperature of the center-most crustacean reaches 180° F (83° C) and is held at this temperature for one minute. Temperature shall be measured with an accurate, indicating thermometer. Crayfish shall be culled and cleaned prior to cooking.
- (3) Nothing in this Rule shall prohibit any other cooking process ~~which that~~ has been found equally effective and approved by the ~~Division~~. Division of Marine Fisheries.

(c) The retort shall be constructed to permit a working pressure of at least 20 pounds per square inch (psig). Steam inlet and venting shall provide a uniform and complete distribution of steam. Venting shall be sufficient to permit complete elimination of air from the retort. Drains and vents shall be located at least two feet above mean high tide.

(d) The retorts shall be equipped with:

- (1) ~~An an~~ accurate, indicating thermometer with a range that will include 170-270° F (77-132° C) and located with the sensor extending into the heat ~~chamber~~. chamber;
- (2) ~~An an~~ operating pressure indicator, at least three inches in diameter, with a 0-30 psig range and located adjacent to the indicating ~~thermometer~~. thermometer; and
- (3) ~~A~~ a safety valve operational at 18-30 psig, located in the upper portion of the retort, protected from ~~tampering~~ tampering, and designed to prevent injury to the operator.

(e) The boiler shall be of such capacity as to maintain 45 to 100 psig during cooking. The steam line from the boiler to the retort shall be at least one and one-fourth inch inside diameter.

(f) Overhead hoists shall be equipped with chain bags or other means of preventing foreign material from falling onto the cooked product.

(g) Retort cooking baskets shall be of stainless steel or equally impervious, ~~non-corrosive~~ non-corrosive, and durable material, and shall be designed to allow for equal steam disbursement, ease of handling, ~~dumping~~ dumping, and cleaning.

(h) All construction or replacement of retorts after October 1, 1992 shall be "flow-through" type and ~~opening~~ open directly into the air-cool room or a protected passageway into the air-cool room.

(i) All construction of new or replacement retorts shall require a Process Validation Study Report approved by the Division prior to use.

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0162 COOKED CRUSTACEA AIR-COOL

(a) Cooked crustacea, after removal from the retort, shall be moved immediately to the cooked crustacea ~~air-cool~~ air-cool area to be air cooled to ambient temperature without being disturbed. Cooked crustacea shall be stored in the original cooking basket.

(b) The construction and arrangement of the air-cool room shall be designed to provide protection from contamination of the cooked crustacea. The air-cool room shall open directly into the cooked crustacea cooler or other protected area.

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0164 COOKED CRUSTACEA PICKING

(a) The picking operation shall be conducted in a manner to prevent contamination.

(b) All cooked crustacea shall be picked before a new supply is delivered to the picking table.

(c) Picked crustacea meat shall be delivered to the packing room at least every 90 minutes or upon the accumulation of five pounds per ~~picker~~ picker, whichever is sooner.

(d) Paper towels used at the picking table shall be discarded after initial use.

(e) If provided, bactericidal solutions at picking tables shall be maintained at 100 ppm chlorine solution or an equivalent bactericidal solution. A testing method or equipment approved by the Division of Marine Fisheries to insure ensure minimum prescribed strengths shall be available and used to test chemical sanitizers.

(f) Handles of picking knives shall not be covered with any material.

(g) Crustacea shall be cooked and picked in the same permitted facility unless a written plan for interfacility shipment has been filed with the Division. The plan shall address and be approved based ~~upon~~ on the following:

- (1) ~~time temperature;~~ time-temperature requirements;
- (2) ~~shipping destination;~~ shipping destination;
- (3) handling;
- (4) labeling;
- (5) records;
- (6) processing;
- (7) sanitation; and
- (8) HACCP plan.

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0165 PACKING

(a) Crustacea meat shall be packed in a ~~container~~, container and iced and cooled to an internal temperature of 40° F (4.4° C) or below within two hours of receipt in the packing room.

(b) The storage of ice in the packing room shall be in an easily cleanable, non-corrosive, non-toxic container.

(c) Blending or combining of any of the following shall be prohibited:

- (1) ~~Fresh~~ fresh crustacea ~~meat~~ meat;
- (2) ~~Frozen~~ frozen crustacea ~~meat~~ meat;
- (3) ~~Pasteurized~~ pasteurized crustacea ~~meat~~ meat; and
- (4) ~~Crustacea~~ crustacea meat packed in another facility.

(d) Clean shipping containers shall be provided by the owner or responsible person for storing and shipping of packed crustacea meat.

(e) The return of overage of crustacea meat to a picker shall be prohibited.

(f) Washing of picked crustacea meat shall be under running potable water. The crustacea meat shall be ~~thoroughly~~ drained prior to packing.

(g) Any substance added to cooked crustacea or crustacea meat shall be approved and labeled according to ~~Federal~~ federal and State rules and regulations.

(h) Only those individuals responsible for packing the crustacea or crustacea meat shall be allowed in the packing room or area.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0166 PICKED CRUSTACEA MEAT REFRIGERATION

(a) The refrigeration room or ice box shall be of sufficient size so that a full day's production, with ice, can be ~~properly~~ stored in a sanitary manner and shall be equipped with an accurate, operating thermometer.

(b) Ice boxes shall be easily cleanable, non-corrosive, and non-toxic with an impervious lining and a drain.

(c) Picked crustacea meat shall be stored ~~between 33° F (0.5° C) and 40° F (4.4° C)~~ at 40° F (4.4° C) or below.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0168 SINGLE-SERVICE CONTAINERS

(a) Single-service containers used for packing or repacking cooked crustacea and crustacea meat shall be made from ~~food-safe~~ food-safe materials approved by the United States Food and Drug Administration.

(b) Containers shall not be reused for packing or repacking cooked crustacea and crustacea meat.

(c) No person shall use containers bearing a permit number other than the number assigned to the facility.

(d) Each container or lid shall be legibly impressed, ~~embossed~~ embossed, or lithographed with the name and address of the original packer, ~~repacker~~ repacker, or distributor. The original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, ~~embossed~~ embossed, or lithographed on each container or lid.

(e) Each container or lid shall be permanently and legibly identified with a code date.

(f) All containers and lids shall be stored and handled ~~in accordance with these Rules~~ in a manner to prevent

contamination, sanitized by a procedure as stated in Rule .0157 of this ~~Section~~ Section, and drained prior to filling.

(g) All containers shall be sealed so that tampering can be detected. The words "Sealed For Your Protection" or equivalent shall be prominently displayed on the container or lid.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0173 REPACKING

(a) Crustacea meat for repacking ~~which that~~ is processed in North Carolina shall comply with Rules .0134 through .0187 of this Section. Crustacea meat for repacking ~~which that~~ is processed outside of North Carolina shall comply with Rule .0182 of this Section. ~~Quarterly bacteriological reports shall be provided to the Division by the repacker of all foreign crustacea meat for repacking.~~

(b) The repacker shall provide the Division of Marine Fisheries a current written list of all sources of crustacea meat used for repacking.

(c) Repacking of crustacea meat:

- (1) Crustacea meat shall not exceed ~~45° F (7.1° C)~~ 40° F (4.4° C) during the repacking process.
- (2) Repacking shall be conducted separately by time or space from the routine crustacea meat picking and packing process.
- (3) The food contact surfaces and utensils utilized in the repacking process shall be cleaned and sanitized prior to repacking and thereafter on ~~30 minute~~ 30-minute intervals during repacking.
- (4) Repacked crustacea meat shall be maintained at or below 40° F (4.4° C).
- (5) Blending or combining of any of the following shall be prohibited:
 - (A) ~~Fresh~~ fresh crustacea meat.
 - (B) ~~Frozen~~ frozen crustacea meat.
 - (C) ~~Pasteurized~~ pasteurized crustacea meat.
 - (D) ~~Crustacea~~ crustacea meat packed in another facility.
- (6) Crustacea meat shall not be repacked more than one time.
- (7) All empty containers shall be rendered unusable.

(d) Labeling of repacked crustacea meat:

- (1) Each container shall be legibly embossed, ~~impressed~~ impressed, or lithographed with the repacker's or the distributor's name and address.
- (2) Each container shall be legibly embossed, ~~impressed~~ impressed, or lithographed with the repacker's certification number followed by the letters "RP."
- (3) Each container shall be permanently and legibly identified with a code indicating the repack date.
- (4) Each container shall be sealed so that tampering can be detected.
- (5) Each container of foreign crustacea meat ~~which that~~ has been repacked outside of North

Carolina shall be labeled in accordance with ~~Federal~~ federal labeling requirements.

(e) Records shall be kept for all purchases of crustacea meat for repacking and sales of repacked meat for one year. The records shall be available for inspection by the Division.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0174 PASTEURIZATION PROCESS CONTROLS - THERMOMETERS

(a) All pasteurizing equipment shall have a time-temperature recording thermometer with a temperature controller (combined or separately) and an indicating thermometer. The thermometers shall be located to give a true representation of the operating temperature of the water bath. The recording thermometer chart shall be at least a 12-hour chart and at least 10 inches in diameter. (b) The recording thermometer shall be installed so that it will be protected from vibration and from striking by loading operations or facility traffic. The thermometer mechanism shall be protected from moisture under prevailing conditions. The thermometer case shall not be opened during the pasteurizing cycle, except for temperature check or for emergency or repair. A record shall be made when the thermometer case has been opened.

(c) The recording thermometer shall have a range of at least 120-220° F (48.9-104.4° C). It shall be accurate within plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The chart shall be scaled at a maximum of 2° F intervals in the range of 160° F (71° C) and 200° F (93° C).

(d) The indicating thermometer shall be a thermometer with an accuracy and readability of plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The thermometer shall be protected against damage.

(e) The recording thermometer shall be equipped with a spring-operated or electrically operated clock. The recorded elapsed time as indicated by the chart rotation shall not exceed the true elapsed time as shown by an accurate watch. The rotating chart support shall be provided with pins upon which the chart shall be affixed by puncturing the chart.

(f) The pasteurization unit shall not be operated without a recording thermometer chart in place, the pen in contact with the ~~chart~~ chart, and an inked record being made of the operating time-temperature cycle. ~~Any indication of falsification of a thermometer chart shall constitute a violation. Falsification of a thermometer chart shall not occur.~~ A permanent file of the used thermometer charts shall be maintained by the pasteurizer and kept available for inspection by the Division of Marine Fisheries for a period of one year. The following information shall be recorded within the confines of the pen markings after the pasteurization cycle has been completed:

- (1) ~~Date~~ date of pasteurization.
- (2) ~~Quantity~~ quantity of each batch pasteurized (pounds of crustacea meat or number and size of containers).
- (3) ~~Processor's~~ processor's code of each pack.
- (4) ~~If~~ if the pasteurizer processes crustacea meat for someone else, then the packer's name, ~~address~~ address, and permit number ~~must~~ shall be

recorded. A copy of the recording chart shall be provided to the owner of the crustacea meat.

(5) ~~Notation~~ notation of mechanical or power failure or opening of the recording thermometer case for adjustment or repair during the pasteurizing cycle.

(6) ~~After~~ after the optimum temperature in the water bath has been reached and during the holding time, the reading of the indicating thermometer and the time of reading shall be recorded on the chart.

(7) ~~Signature~~ signature of the pasteurizer operator.

(g) A constant flow steam control valve is required, if steam is used as a source of heat.

(h) The water bath shall be provided with effective agitation to maintain a uniform temperature.

(i) Other technologies that provide the data, ~~information~~ information, and records as required in this Rule may be used if approved by the Division.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0175 PREPARATION OF CRUSTACEA MEAT FOR PASTEURIZATION

The preparation of crustacea meat for pasteurization shall be in compliance with the following:

- (1) ~~Crustacea~~ crustacea meat shall be prepared in compliance with Rules .0134 through .0183 of this Section.
- (2) ~~The~~ the containers of crustacea meat shall be sealed as quickly as possible after the crustacea meat is picked.
- (3) ~~The~~ the sealed ~~container~~ containers of crustacea meat shall be placed immediately in ice and refrigerated until pasteurized.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0176 PASTEURIZATION OF CRUSTACEA MEAT

(a) All pasteurization operations shall require a Process Validation Study Report approved by the Division of Marine Fisheries prior to operation.

(b) The pasteurization of crustacea meat shall be conducted in compliance with the following: following procedures:

- (1) ~~The~~ the minimum pasteurization specifications shall be ~~the raising of the internal temperature of the container heating every particle of crustacea meat in a hermetically-sealed container to a temperature of at least 185° F (85° C) and holding it continuously at that or above this temperature for at least one minute at the geometric center of a container.~~ container in equipment being operated in compliance with the Process Validation Study Report. Each set of pasteurizing equipment shall be standardized so that the minimum

~~pasteurization procedure in this Subparagraph can be obtained. The pasteurization procedure shall be performed in accordance with the standardization report. This process~~ A copy of the procedures for operating the pasteurizing equipment shall also be posted adjacent to the pasteurization vat. The pasteurizer shall keep on file the standardization report on file and shall provide the Division a copy of such report.

- (2) ~~Alteration~~ alteration of the equipment or loading of containers shall require ~~the procedure be restandardized.~~ a new Process Validation Study Report.
- (3) ~~The~~ the containers of crustacea meat shall be cooled to 50° F (10° C) or below within three ~~hours.~~ hours of the completion of pasteurization.
- (4) ~~Refrigerated~~ refrigerated storage shall be provided for the cooled crustacea meat and shall maintain a storage temperature at or below 36° F (2.2° C); 38° F (3.3° C).

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0177 LABELING OF PASTEURIZED CRUSTACEA MEAT

Labeling of pasteurized crustacea meat shall be in compliance with the following:

- (1) ~~The~~ the label used shall clearly identify the contents of the container as pasteurized crustacea meat.
- (2) ~~Each~~ each container shall be permanently and legibly identified with a code indicating the batch and day of processing.
- (3) ~~The~~ the words "Perishable-Keep Under Refrigeration", ~~or equivalent,~~ Refrigeration" or equivalent shall be prominently displayed on the container.
- (4) ~~The~~ the original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, ~~embossed~~ embossed, or lithographed on each container. Each container shall be legibly impressed, ~~embossed~~ embossed, or lithographed with the name and address of the original packer, ~~repacker~~ repacker, or distributor.

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0178 INTERFACILITY PASTEURIZATION PROCEDURES

No person shall initiate interfacility pasteurization of crustacea meat without prior written approval by the ~~Division.~~ Division of Marine Fisheries. Interfacility pasteurization of crustacea meat shall be in ~~conjunction~~ compliance with the following:

- (1) ~~Crustacea~~ crustacea meat shall be packed, ~~labeled~~ labeled, and refrigerated in compliance

with Rules .0134 through .0182 of this Section. Records shall be maintained to identify each batch of crustacea meat pasteurized.

- (2) ~~Crustacea~~ crustacea meat shall be shipped in an enclosed, easily cleanable vehicle at a temperature ~~between 33° F (0.5° C) and of 40° F (4.4° C).~~ C) or below.
- (3) ~~Crustacea~~ crustacea meat shall be pasteurized in compliance with Rules .0175 through .0177 of this Section. The pasteurizer shall provide a copy of each pasteurization chart to the original packer.

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0181 EMBARGO OR DISPOSAL OF COOKED CRUSTACEA OR CRUSTACEA MEAT

- (a) When it has been determined by the Division of Marine Fisheries that cooked crustacea or crustacea meat have not been stored, transported, handled, cooked, picked, ~~packed~~ packed, or offered for sale in compliance with this Section, the cooked crustacea or crustacea meat shall be deemed adulterated.
- (b) Cooked crustacea or crustacea meat ~~prepared for sale to the public~~ determined to be adulterated or ~~misbranded,~~ misbranded shall be subject to embargo or disposal by the Division in accordance with G.S. 113-221.4, 130A-21(c). ~~The Division may embargo, condemn, destroy or otherwise dispose of all cooked crustacea or crustacea meat found to be adulterated or misbranded.~~

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 113-221.4; 143B-289.52.~~

15A NCAC 18A .0182 BACTERIOLOGICAL AND CONTAMINATION STANDARDS

- (a) Cooked crustacea or crustacea meat shall not exceed Escherichia coli Most Probable Number (MPN) of 36 per 100 grams of sample or exceed a standard plate count of 100,000 per gram.
- (b) Pasteurized crustacea meat shall contain no Escherichia coli or fecal coliform. Samples of pasteurized crustacea meat, taken within 24 hours of pasteurizing, shall not have a standard plate count of more than 3,000 per gram.
- (c) Thermally processed crustacea or crustacea meat shall not exceed Escherichia coli MPN of 36 per 100 grams of sample or exceed a standard plate count of 100,000 per gram.
- (d) Cooked crustacea or crustacea meat shall not be handled in a manner to make it an imminent hazard.
- (e) Cooked crustacea or crustacea meat found not complying with the standards as ~~stated~~ set forth in Paragraph (a), (b), ~~(c),~~ or (d) of this Rule may be deemed adulterated by the ~~Division.~~ Division of Marine Fisheries.

Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52.~~

15A NCAC 18A .0183 ALTERNATIVE LABELING

A durable label, permanently affixed to the ~~container~~ container, may be used to meet any labeling requirement in this Section.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0184 THERMAL PROCESSING CONTROLS - THERMOMETERS

(a) All thermal processing equipment shall have a time-temperature recording thermometer with a temperature controller (combined or separately) and an indicating thermometer. The thermometers shall be located to give a true representation of the operating temperature of the process. The recording thermometer chart shall be at least a 12-hour chart and at least 10 inches in diameter.

(b) The recording thermometer shall be installed so that it will be protected from vibration and from striking by loading operations or facility traffic. The thermometer mechanism shall be protected from moisture under prevailing conditions. The thermometer case shall not be opened during the thermal processing cycle, except for temperature check or for emergency or repair. A record shall be made when the thermometer case has been opened.

(c) The recording thermometer shall have a range of at least 120-220° F (48.9-104.4° C). It shall be accurate within plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The chart shall be scaled at a maximum of 2° F intervals in the range of 160° F (71° C) and 200° F (93° C).

(d) The indicating thermometer shall be a thermometer with an accuracy and readability of plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The thermometer shall be protected against damage.

(e) The recording thermometer shall be equipped with a spring-operated or electrically operated clock. The recorded elapsed time as indicated by the chart rotation shall not exceed the true elapsed time as shown by an accurate watch. The rotating chart support shall be provided with pins upon which the chart shall be affixed by puncturing the chart.

(f) The thermal processing unit shall not be operated without a recording thermometer chart in place, the pen in contact with the chart ~~chart~~, and an inked record being made of the operating time-temperature cycle. ~~Any indication of falsification of a thermometer chart shall constitute a violation. Falsification of a thermometer chart shall not occur.~~ A permanent file of the used thermometer charts shall be maintained by the thermal processor and kept available for inspection by the Division of Marine Fisheries for a period of one year. The following information shall be recorded within the confines of the pen markings after the thermal processing cycle has been completed:

- (1) ~~Date~~ date of thermal processing.
- (2) ~~Quantity~~ quantity of each batch thermally processed (pounds of crustacea meat or number and size of containers).
- (3) ~~Thermal~~ thermal processor's code of each pack.
- (4) ~~If~~ if the thermal processor processes crustacea meat for someone else, then the packer's name, address ~~address~~, and permit number ~~must~~ shall be recorded. A copy of the recording chart shall be provided to the owner of the crustacea meat.

(5) ~~Notation~~ notation of mechanical or power failure or opening of the recording thermometer case for adjustment or repair during the thermal processing cycle.

(6) ~~After~~ after the optimum temperature in the thermal process has been reached and during the holding time, the reading of the indicating thermometer and the time of reading shall be recorded on the chart.

(7) ~~Signature~~ signature of the thermal process operator.

(g) A constant flow steam control valve is required, if steam is used as a source of heat.

(h) The thermal processing unit shall be provided with effective and uniform temperature.

(i) Other technologies that provide the data, ~~information~~ information, and records as required in this Rule may be used if approved by the Division.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0185 THERMAL PROCESSING OF CRUSTACEA AND CRUSTACEA MEAT

(a) All thermal processing operations shall require a Process Validation Study Report approved by the Division of Marine Fisheries prior to operation.

(b) The thermal processing of crustacea or crustacea meat shall be conducted in compliance with the ~~following~~ following procedures:

(1) ~~The~~ the minimum thermal processing specifications shall be the ~~raising of the internal heating of previously cooked temperature of the container~~ of crustacea or crustacea meat to a desired temperature ~~and for a specified time~~ at the geometric center of a ~~container~~ container in equipment being operated in compliance with the Process Validation Study Report. Each set of thermal processing equipment shall be standardized so that the minimum procedure can be obtained. The thermal process procedure shall be performed in accordance with the standardization report. This process A copy of the procedures for operating the thermal processing equipment shall also be posted adjacent to the thermal processing unit. The thermal processor shall keep on file the standardization report on file and shall provide the Division a copy of such report.

(2) ~~Alteration~~ alteration of the equipment or loading of containers shall require ~~the procedure be restandardized.~~ a new Process Validation Study Report.

(3) ~~The~~ the containers of crustacea or crustacea meat shall be cooled to 50° F (10° C) or below within three ~~hours~~ hours of the completion of the thermal process.

(4) ~~Refrigerated~~ refrigerated storage shall be provided for the cooled crustacea or crustacea

meat and shall maintain a storage temperature at or below 36° F (2.2° C).

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0186 LABELING OF THERMALLY PROCESSED CRUSTACEA OR CRUSTACEA MEAT

Labeling of thermally processed crustacea or crustacea meat shall be in compliance with the following:

- (1) ~~The~~ the label used shall clearly identify the contents of the container as thermally processed crustacea or crustacea meat.
- (2) ~~Each~~ each container shall be permanently and legibly identified with a code indicating the batch and day of processing.
- (3) ~~The~~ the words "Perishable-Keep Under Refrigeration" or equivalent shall be prominently displayed on the container.
- (4) ~~The~~ the original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, ~~embossed~~ embossed, or lithographed on each container. Each container shall be legibly impressed, ~~embossed~~ embossed, or lithographed with the name and address of the original packer, ~~repacker~~ repacker, or distributor.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0187 INTERFACILITY THERMAL PROCESSING PROCEDURES

Interfacility thermal processing of crustacea or crustacea meat shall be in ~~conjunction~~ compliance with the following:

- (1) ~~Crustacea~~ crustacea or crustacea meat shall be packed, ~~labeled~~ labeled, and refrigerated in compliance with Rules .0134 through .0187 of this Section. Records shall be maintained to identify each batch of crustacea or crustacea meat thermally processed.
- (2) ~~Crustacea~~ crustacea or crustacea meat shall be shipped in an enclosed, easily cleanable vehicle at a temperature ~~between 33° F (0.5° C) and of~~ 40° F (4.4° C) or below.
- (3) ~~Crustacea~~ crustacea or crustacea meat shall be thermally processed in compliance with Rules .0184 through .0187 of this Section. The thermal processor shall provide a copy of each thermal processing chart to the original packer.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

15A NCAC 18A .0191 MONITORING RECORDS

Monitoring records of critical control points and general sanitation requirements shall be recorded, as specified in ~~plan, the~~ HACCP Plan, and signed and dated when recorded. The records shall be reviewed by the owner or designee within one week of recording.

Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52.

Note from the Codifier: The rules published in this Section of the NC Register are emergency rules reviewed by the Codifier of Rules and entered in the North Carolina Administrative Code. The agency must subsequently publish a proposed temporary rule on the OAH website (www.ncpah.com/rules) and submit that adopted temporary rule to the Rules Review Commission within 60 days from publication of the emergency rule or the emergency rule will expire on the 60th day from publication. This section of the Register may also include, from time to time, a listing of emergency rules that have expired. See G.S. 150B-21.1A and 26 NCAC 02C .0600 for adoption and filing requirements.

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

Rule-making Agency: Board of Agriculture and the
Commissioner of Agriculture

Rule Citation: 02 NCAC 52B .0214

Effective Date: July 13, 2021

Findings Reviewed and Approved by the Codifier: July 2,
2021

Reason for Action: This rule is necessary for preventing the introduction and mitigation of Rabbit Hemorrhagic Disease Virus - 2 ("RHDV-2"). RHDV-2 is a highly contagious and always fatal disease for both domesticated and wild rabbits. Many times, the only signs of the disease are sudden death and blood stained noses caused by internal bleeding. Infected rabbits may also develop a fever, be hesitant to eat, or show respiratory or nervous signs. RHDV-2 is a foreign animal disease and has spread to multiple states, including the Southwest, West, Midwest, and Florida. Cases were also detected in New York City, and more recently, Georgia. Currently, there are no import restrictions or any monitoring requirements for the importation of rabbits into North Carolina. Furthermore, the Veterinary Division is aware of the practice of at least one business group that travels from state to state, buying and selling rabbits, including in RHDV-2 detected states, prior to importing commingled rabbits to North Carolina, a practice that increases the risk of disease spread. This emergency rule will establish permitting and health certificate requirements for rabbits that are imported from RHDV-2 detected countries and states so that the Veterinary Division may monitor the imported rabbits for RHDV-2 and have the information at hand for disease tracing and quarantine in the event of the disease being introduced. Due to the concerns of RHDV-2 being introduced and causing deaths of both wild and domesticated rabbits, emergency adoption of the rule is required.

CHAPTER 52 - VETERINARY

SUBCHAPTER 52B - ANIMAL DISEASE

**SECTION .0200 - ADMISSION OF LIVESTOCK TO
NORTH CAROLINA**

**02 NCAC 52B .0214 IMPORTATION
REQUIREMENTS: RABBITS**

(a) An import permit from the State Veterinarian is required for the importation of a rabbit into the State of North Carolina originating from:

- (1) any country or state with Rabbit Hemorrhagic Disease Virus-2 ("RHDV-2") detected; or
- (2) a state or country without RHDV-2 if the rabbit makes any intervening stop in a country or state with RHDV-2 detected, if the rabbit is commingled or exposed to any other rabbit not being shipped directly from the point of origin together, or if the imported rabbit is exposed to materials such as cages, beddings, and supplies that have been in contact with another rabbit not shipped directly from the point of origin together.

(b) The rabbit import permit application shall be accompanied by an official health certificate certifying the rabbit to be free from any contagious animal disease, including RHDV-2.

- (1) If the rabbit is shipped directly without any intervening stops, without commingling or exposure to any other rabbit not being shipped directly from the point of origin together, and without exposure to materials such as cages, beddings, and supplies that have been in contact with another rabbit not shipped directly from the point of origin together, then the official health certificate shall be obtained within seven days of the date of importation into North Carolina.
- (2) If the rabbit is shipped with intervening stops, with commingling or exposure to another rabbit not being shipped directly from the point of origin together, or with exposure to materials such as cages, beddings, and supplies that have been in contact with another rabbit not shipped directly from the point of origin together, then the official health certificate shall be obtained from the location of the last intervening stop, commingling, or exposure, and within seven days of the date of importation into North Carolina.

(c) No permit is needed for direct shipment of a rabbit from a country or state without RHDV-2 or if the rabbit makes intervening stops only in countries or states without RHDV-2, the rabbit is not commingled or exposed to another rabbit not shipped directly from the point of origin together, and the rabbit is not exposed to materials such as cages, beddings, and supplies that have been in contact with another rabbit not shipped directly from the point of origin together.

(d) The application for rabbit importation shall include the arrival date, the import destination within the State of North Carolina, a contact person and phone number at that location, and any federal licensing, permit, and documentation required for the importation of the rabbit if imported from outside of the United States of America.

EMERGENCY RULES

(e) A rabbit requiring an import permit that is imported into North Carolina shall be accompanied by an official health certificate with the import permit number and shall be made available for inspection by the State Veterinarian or his or her designee upon request.

(f) An intervening stop is defined as a stop in a country or state longer than 24 hours but less than 10 days. The location of any stop for longer than 10 days shall be deemed the new country or state of origin.

(g) Health certificates issued outside of the United States shall be issued in English and by a veterinarian with a valid license to practice veterinary medicine in the country of export.

History Note: Authority G.S. 106-317; 106-400;
Emergency Adoption Eff. July 13, 2021.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on June 17, 2021 Meeting.

REGISTER CITATION TO THE NOTICE OF TEXT

ENVIRONMENTAL QUALITY, DEPARTMENT OF

<u>Purpose and Organization</u>	01 NCAC 41D .0101*	35:08 NCR
<u>Fund Disbursements</u>	01 NCAC 41D .0302*	35:08 NCR

CHILD CARE COMMISSION

<u>Enhanced Program Standards for a Rated License for Family...</u>	10A NCAC 09 .2828	35:14 NCR
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MEDICAL CARE COMMISSION

<u>Qualifications of Medication Staff</u>	10A NCAC 13F .0403*	35:12 NCR
<u>Test for Tuberculosis</u>	10A NCAC 13F .0406*	35:12 NCR
<u>Qualifications of Supervisor-In-Charge</u>	10A NCAC 13G .0402*	35:12 NCR
<u>Qualifications of Medication Staff</u>	10A NCAC 13G .0403	35:12 NCR
<u>Test for Tuberculosis</u>	10A NCAC 13G .0405*	35:12 NCR
<u>Abbreviations</u>	10A NCAC 13P .0101	35:12 NCR
<u>Definitions</u>	10A NCAC 13P .0102	35:12 NCR
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TITLE 01 - DEPARTMENT OF ENVIRONMENTAL QUALITY

01 NCAC 41D .0101 PURPOSE AND ORGANIZATION

History Note: Authority G.S. 143-58.4; 143-58.5;
Eff. May 1, 2007;
Repealed Eff. July 1, 2021.

01 NCAC 41D .0302 FUND DISBURSEMENTS

History Note: Authority G.S. 143-58.4; 143-58.5;
Eff. May 1, 2007;
Repealed Eff. July 1, 2021.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

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

- (a) This Rule shall apply to evaluating the program standards for a rated license for family child care homes.
- (b) To achieve two through seven points for program standards, the operator shall meet the criteria listed in the following chart:

FCCH Program Standards (.2828) Point Level	Criteria
2 points	Operator provides documentation of self-study and self-assessment using the Family Child Care Rating Scale over a 3-month time period. Documentation such as an ERS book with score sheets, self-assessments and program adjustments shall be reviewed by the Division as part of the rated license assessment.
3 points	Provide documentation of the 3-month self-study AND have a score of 4.0 or higher on the Family Child Care Rating Scale
4 points	Provide documentation of the 3-month self-study AND have a score of 4.25 or higher on the Family Child Care Rating Scale
5 points	Provide documentation of the 3-month self-study AND have a score of 4.5 or higher on the Family Child Care Rating Scale
6 points	Provide documentation of the 3-month self-study AND have a score of 4.75 or higher on the Family Child Care Rating Scale AND of the five preschoolers allowed to be enrolled, no more than

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

History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;
Eff. May 1, 2006;
Recodified from Rule .2821 Eff. August 1, 2012;
Readopted Eff. March 1, 2019;
Amended Eff. July 1, 2021.

10A NCAC 13F .0403 QUALIFICATIONS OF MEDICATION STAFF

- (a) Adult care home staff who administer medications, hereafter referred to as medication aides, and their direct supervisors shall complete training, clinical skills validation, and pass the written examination as set forth in G.S. 131D-4.5B. Persons authorized by state occupational licensure laws to administer medications are exempt from this requirement.
- (b) Medication aides and their direct supervisors, except persons authorized by state occupational licensure laws to administer medications, shall complete six hours of continuing education annually related to medication administration.

History Note: Authority G.S. 131D-2.16; 131D-4.5; 131D-4.5B; 143B-165;
Temporary Adoption Eff. January 1, 2000; December 1, 1999;
Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, 2005;
Readopted Eff. July 1, 2021.

10A NCAC 13F .0406 TEST FOR TUBERCULOSIS

- (a) Upon employment or moving into an adult care home, the administrator, all other staff, and any persons living in the adult care home shall be tested for tuberculosis disease in compliance with control measures adopted by the Commission for Public Health as specified in 10A NCAC 41A .0205, which is hereby incorporated by reference, including subsequent amendments.
- (b) There shall be documentation on file in the adult care home that the administrator, all other staff, and any persons living in the adult care home are free of tuberculosis disease.

History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;

Temporary Amendment Eff. September 1, 2003; July 1, 2003;
Amended Eff. June 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;
Amended Eff. July 1, 2021.

10A NCAC 13G .0402 QUALIFICATIONS OF SUPERVISOR-IN-CHARGE

The supervisor-in-charge, who is responsible to the administrator for carrying out the program in a family care home in the absence of the administrator, shall meet the following requirements:

- (1) be 21 years or older, if employed on or after the effective date of this Rule;
- (2) the supervisor-in-charge, employed on or after August 1, 1991, shall be a high school graduate or certified under the GED Program or passed the alternative examination established by the Department of Health and Human Services prior to the effective date of this Rule; and
- (3) earn 12 hours a year of continuing education credits related to the management of adult care homes and care of aged and disabled persons.

History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
ARRC Objection June 16, 1988;
Amended Eff. July 1, 1990; December 1, 1988; April 1, 1987;
January 1, 1985;
ARRC Objection Lodged January 18, 1991;
Amended Eff. August 1, 1991;
Readopted Eff. July 1, 2021.

10A NCAC 13G .0403 QUALIFICATIONS OF MEDICATION STAFF

- (a) Family care home staff who administer medications, hereafter referred to as medication aides, and their direct supervisors shall complete training, clinical skills validation, and pass the written examination as set forth in G.S. 131D-4.5B. Persons authorized by state occupational licensure laws to administer medications are exempt from this requirement.
- (b) Medication aides and their direct supervisors, except persons authorized by state occupational licensure laws to administer medications, shall complete six hours of continuing education annually related to medication administration.

History Note: Authority G.S. 131D-2.16; 131D-4.5; 131D-4.5B; 143B-165;
Temporary Adoption Eff. January 1, 2000; December 1, 1999;
Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, 2005;
Readopted Eff. July 1, 2021.

10A NCAC 13G .0405 TEST FOR TUBERCULOSIS

- (a) Upon employment or moving into a family care home, the administrator, all other staff, and any persons living in the family care home shall be tested for tuberculosis disease in compliance

with control measures adopted by the Commission for Public Health as specified in 10A NCAC 41A .0205, which is hereby incorporated by reference, including subsequent amendments.

(b) There shall be documentation on file in the family care home that the administrator, all other staff, and any persons living in the family care home are free of tuberculosis disease.

History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;

Eff. January 1, 1977;

Amended Eff. October 1, 1977; April 22, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. December 1, 1993; April 1, 1984;

Temporary Amendment Eff. September 1, 2003;

Amended Eff. June 1, 2004;

Readopted Eff. July 1, 2021.

10A NCAC 13P .0101 ABBREVIATIONS

As used in this Subchapter, the following abbreviations mean:

- (1) ACS: American College of Surgeons;
- (2) AEMT: Advanced Emergency Medical Technician;
- (3) AHA: American Heart Association;
- (4) ASTM: American Society for Testing and Materials;
- (5) CAAHEP: Commission on Accreditation of Allied Health Education Programs;
- (6) CPR: Cardiopulmonary Resuscitation;
- (7) ED: Emergency Department;
- (8) EMD: Emergency Medical Dispatcher;
- (9) EMR: Emergency Medical Responder;
- (10) EMS: Emergency Medical Services;
- (11) EMS-NP: EMS Nurse Practitioner;
- (12) EMS-PA: EMS Physician Assistant;
- (13) EMT: Emergency Medical Technician;
- (14) FAA: Federal Aviation Administration;
- (15) FCC: Federal Communications Commission;
- (16) ICD: International Classification of Diseases;
- (17) ISS: Injury Severity Score;
- (18) MICN: Mobile Intensive Care Nurse;
- (19) NHTSA: National Highway Traffic Safety Administration;
- (20) OEMS: Office of Emergency Medical Services;
- (21) OR: Operating Room;
- (22) PSAP: Public Safety Answering Point;
- (23) RAC: Regional Advisory Committee;
- (24) RFP: Request For Proposal;
- (25) SCTP: Specialty Care Transport Program;
- (26) SMARTT: State Medical Asset and Resource Tracking Tool;
- (27) STEMI: ST Elevation Myocardial Infarction; and
- (28) US DOT: United States Department of Transportation.

History Note: Authority G.S. 143-508(b);

Temporary Adoption Eff. January 1, 2002;

Eff. April 1, 2003;

Amended Eff. January 1, 2009; January 1, 2004;

Readopted Eff. January 1, 2017;

Amended Eff. July 1, 2021.

10A NCAC 13P .0102 DEFINITIONS

In addition to the definitions in G.S. 131E-155, the following definitions apply throughout this Subchapter:

- (1) "Affiliated EMS Provider" means the firm, corporation, agency, organization, or association identified with a specific county EMS system as a condition for EMS Provider Licensing as required by Rule .0204 of this Subchapter.
- (2) "Affiliated Hospital" means a non-trauma center hospital that is owned by the Trauma Center or there is a contract or other agreement to allow for the acceptance or transfer of the Trauma Center's patient population to the non-trauma center hospital.
- (3) "Affiliate" or "Affiliation" means a reciprocal agreement and association that includes active participation, collaboration, and involvement in a process or system between two or more parties.
- (4) "Alternative Practice Setting" means a practice setting that utilizes credentialed EMS personnel that may not be affiliated with or under the oversight of an EMS System or EMS System Medical Director.
- (5) "Air Medical Ambulance" means an aircraft configured and medically equipped to transport patients by air. The patient care compartment of air medical ambulances shall be staffed by medical crew members approved for the mission by the Medical Director.
- (6) "Air Medical Program" means a SCTP or EMS System utilizing rotary-wing or fixed-wing aircraft configured and operated to transport patients.
- (7) "Assistant Medical Director" means a physician, EMS-PA, or EMS-NP who assists the Medical Director with the medical aspects of the management of a practice setting utilizing credentialed EMS personnel or medical crew members.
- (8) "Bypass" means a decision made by the patient care technician to transport a patient from the scene of an accident or medical emergency past a receiving facility for the purposes of accessing a facility with a higher level of care, or a hospital of its own volition reroutes a patient from the scene of an accident or medical emergency or referring hospital to a facility with a higher level of care.
- (9) "Community Paramedicine" means an EMS System utilizing credentialed personnel who have received additional training as determined by the EMS system Medical Director to provide knowledge and skills for the community needs beyond the 911 emergency response and

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| | transport operating guidelines defined in the EMS system plan. | | issued by the Department pursuant to G.S. 131E-155.1. |
| (10) | "Contingencies" mean conditions placed on a designation that, if unmet, may result in the loss or amendment of a designation. | (22) | "EMS System" means a coordinated arrangement of local resources under the authority of the county government (including all agencies, personnel, equipment, and facilities) organized to respond to medical emergencies and integrated with other health care providers and networks including public health, community health monitoring activities, and special needs populations. |
| (11) | "Convalescent Ambulance" means an ambulance used on a scheduled basis solely to transport patients having a known non-emergency medical condition. Convalescent ambulances shall not be used in place of any other category of ambulance defined in this Subchapter. | (23) | "Essential Criteria" means those items that are the requirements for the respective level of trauma center designation (I, II, or III), as set forth in Rule .0901 of this Subchapter. |
| (12) | "Deficiency" means the failure to meet essential criteria for a designation that can serve as the basis for a focused review or denial of a designation. | (24) | "Focused Review" means an evaluation by the OEMS of corrective actions to remove contingencies that are a result of deficiencies following a site visit. |
| (13) | "Department" means the North Carolina Department of Health and Human Services. | (25) | "Ground Ambulance" means an ambulance used to transport patients with traumatic or medical conditions or patients for whom the need for specialty care, emergency, or non-emergency medical care is anticipated either at the patient location or during transport. |
| (14) | "Diversion" means the hospital is unable to accept a patient due to a lack of staffing or resources. | (26) | "Hospital" means a licensed facility as defined in G.S. 131E-176 or an acute care in-patient diagnostic and treatment facility located within the State of North Carolina that is owned and operated by an agency of the United States government. |
| (15) | "Educational Medical Advisor" means the physician responsible for overseeing the medical aspects of approved EMS educational programs. | (27) | "Inclusive Trauma System" means an organized, multi-disciplinary, evidence-based approach to provide quality care and to improve measurable outcomes for all defined injured patients. EMS, hospitals, other health systems, and clinicians shall participate in a structured manner through leadership, advocacy, injury prevention, education, clinical care, performance improvement, and research resulting in integrated trauma care. |
| (16) | "EMS Care" means all services provided within each EMS System by its affiliated EMS agencies and personnel that relate to the dispatch, response, treatment, and disposition of any patient. | (28) | "Infectious Disease Control Policy" means a written policy describing how the EMS system will protect and prevent its patients and EMS professionals from exposure and illness associated with contagions and infectious disease. |
| (17) | "EMS Educational Institution" means any agency credentialed by the OEMS to offer EMS educational programs. | (29) | "Lead RAC Agency" means the agency (comprised of one or more Level I or II trauma centers) that provides staff support and serves as the coordinating entity for trauma planning. |
| (18) | "EMS Non-Transporting Vehicle" means a motor vehicle operated by a licensed EMS provider dedicated and equipped to move medical equipment and EMS personnel functioning within the scope of practice of an AEMT or Paramedic to the scene of a request for assistance. EMS nontransporting vehicles shall not be used for the transportation of patients on the streets, highways, waterways, or airways of the state. | (30) | "Level I Trauma Center" means a hospital that has the capability of providing guidance, research, and total care for every aspect of injury from prevention to rehabilitation. |
| (19) | "EMS Peer Review Committee" means a committee as defined in G.S. 131E-155(6b). | (31) | "Level II Trauma Center" means a hospital that provides trauma care regardless of the severity of the injury, but may lack the comprehensive |
| (20) | "EMS Performance Improvement Self-Tracking and Assessment of Targeted Statistics" means one or more reports generated from the State EMS data system analyzing the EMS service delivery, personnel performance, and patient care provided by an EMS system and its associated EMS agencies and personnel. Each EMS Performance Improvement Self-Tracking and Assessment of Targeted Statistics focuses on a topic of care such as trauma, cardiac arrest, EMS response times, stroke, STEMI (heart attack), and pediatric care. | | |
| (21) | "EMS Provider" means those entities defined in G.S. 131E-155(13a) that hold a current license | | |

- care as a Level I trauma center, and does not have trauma research as a primary objective.
- (32) "Level III Trauma Center" means a hospital that provides assessment, resuscitation, emergency operations, and stabilization, and arranges for hospital transfer as needed to a Level I or II trauma center.
- (33) "Medical Crew Member" means EMS personnel or other health care professionals who are licensed or registered in North Carolina and are affiliated with a SCTP.
- (34) "Medical Director" means the physician responsible for the medical aspects of the management of a practice setting utilizing credentialed EMS personnel or medical crew members, or a Trauma Center.
- (35) "Medical Oversight" means the responsibility for the management and accountability of the medical care aspects of a practice setting utilizing credentialed EMS personnel or medical crew members. Medical Oversight includes physician direction of the initial education and continuing education of EMS personnel or medical crew members; development and monitoring of both operational and treatment protocols; evaluation of the medical care rendered by EMS personnel or medical crew members; participation in system or program evaluation; and directing, by two-way voice communications, the medical care rendered by the EMS personnel or medical crew members.
- (36) "Mobile Integrated Healthcare" means utilizing credentialed personnel who have received additional training as determined by the Alternative Practice Setting medical director to provide knowledge and skills for the healthcare provider program needs.
- (37) "Office of Emergency Medical Services" means a section of the Division of Health Service Regulation of the North Carolina Department of Health and Human Services located at 1201 Umstead Drive, Raleigh, North Carolina 27603.
- (38) "On-line Medical Control" means the medical supervision or oversight provided to EMS personnel through direct communication in-person, via radio, cellular phone, or other communication device during the time the patient is under the care of an EMS professional.
- (39) "Operational Protocols" means the administrative policies and procedures of an EMS System or that provide guidance for the day-to-day operation of the system.
- (40) "Physician" means a medical or osteopathic doctor licensed by the North Carolina Medical Board to practice medicine in the state of North Carolina.
- (41) "Regional Advisory Committee" means a committee comprised of a lead RAC agency and a group representing trauma care providers and the community, for the purpose of regional planning, establishing, and maintaining a coordinated trauma system.
- (42) "Request for Proposal" means a State document that must be completed by each hospital seeking initial or renewal trauma center designation.
- (43) "Significant Failure to Comply" means a degree of non-compliance determined by the OEMS during compliance monitoring to exceed the ability of the local EMS System to correct, warranting enforcement action pursuant to Section .1500 of this Subchapter.
- (44) "State Medical Asset and Resource Tracking Tool" means the Internet web-based program used by the OEMS both in its daily operations and during times of disaster to identify, record, and monitor EMS, hospital, health care, and sheltering resources statewide, including facilities, personnel, vehicles, equipment, and pharmaceutical and supply caches.
- (45) "Specialty Care Transport Program" means a program designed and operated for the transportation of a patient by ground or air requiring specialized interventions, monitoring, and staffing by a paramedic who has received additional training as determined by the program Medical Director beyond the minimum training prescribed by the OEMS, or by one or more other healthcare professional(s) qualified for the provision of specialized care based on the patient's condition.
- (46) "Specialty Care Transport Program Continuing Education Coordinator" means a Level II EMS Instructor within a SCTP who is responsible for the coordination of EMS continuing education programs for EMS personnel within the program.
- (47) "Stretcher" means any wheeled or portable device capable of transporting a person in a recumbent position and may only be used in an ambulance vehicle permitted by the Department.
- (48) "Stroke" means an acute cerebrovascular hemorrhage or occlusion resulting in a neurologic deficit.
- (49) "System Continuing Education Coordinator" means the Level II EMS Instructor designated by the local EMS System who is responsible for the coordination of EMS continuing education programs.
- (50) "System Data" means all information required for daily electronic submission to the OEMS by all EMS Systems using the EMS data set, data dictionary, and file format as specified in "North Carolina College of Emergency

- Physicians: Standards for Medical Oversight and Data Collection," incorporated herein by reference including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699- 2707, at no cost and online at www.ncems.org at no cost.
- (51) "Trauma Center" means a hospital designated by the State of North Carolina and distinguished by its ability to manage, on a 24-hour basis, the severely injured patient or those at risk for severe injury.
- (52) "Trauma Patient" means any patient with an ICD-CM discharge diagnosis as defined in the "North Carolina Trauma Registry Data Dictionary," incorporated herein by reference, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost and online at <https://info.ncdhhs.gov/dhsr/EMS/trauma/traumaregistry.html> at no cost.
- (53) "Trauma Program" means an administrative entity that includes the trauma service and coordinates other trauma-related activities. It shall also include the trauma Medical Director, trauma program manager/trauma coordinator, and trauma registrar. This program's reporting structure shall give it the ability to interact with at least equal authority with other departments in the hospital providing patient care.
- (54) "Trauma Registry" means a disease-specific data collection composed of a file of uniform data elements that describe the injury event, demographics, pre-hospital information, diagnosis, care, outcomes, and costs of treatment for injured patients collected and electronically submitted as defined by the OEMS. The elements of the Trauma Registry can be accessed at <https://info.ncdhhs.gov/dhsr/EMS/trauma/traumaregistry.html> at no cost.
- (55) "Treatment Protocols" means a document approved by the Medical Directors of the local EMS System, Specialty Care Transport Program, Alternative Practice Setting, or Trauma Center and the OEMS specifying the diagnostic procedures, treatment procedures, medication administration, and patient-care-related policies that shall be completed by EMS personnel or medical crew members based upon the assessment of a patient.
- (56) "Triage" means the assessment and categorization of a patient to determine the level of EMS and healthcare facility based care required.
- (57) "Water Ambulance" means a watercraft specifically configured and medically equipped to transport patients.
- History Note: Authority G.S. 131E-155(6b); 131E-162; 143-508(b); 143-508(d)(1); 143-508(d)(2); 143-508(d)(3); 143-508(d)(4); 143-508(d)(5); 143-508(d)(6); 143-508(d)(7); 143-508(d)(8); 143-508(d)(13); 143-518(a)(5); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. March 3, 2009 pursuant to E.O. 9, Beverly Perdue, March 3, 2009; Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule; Readopted Eff. January 1, 2017; Amended Eff. July 1, 2021; September 1, 2019; July 1, 2018.*
- 10A NCAC 13P .0222 TRANSPORT OF STRETCHER BOUND PATIENTS**
- (a) Any person transported on a stretcher as defined in Rule .0102 of this Subchapter meets the definition of patient as defined in G.S. 131E-155(16).
- (b) Stretchers may only be utilized for patient transport in an ambulance permitted by the OEMS in accordance with G.S. 131E-156 and Rule .0211 of this Section.
- (c) The Medical Care Commission exempts wheeled chair devices used solely for the transportation of mobility impaired persons seated in an upright position in non-permitted vehicles from the definition of stretcher.
- History Note: Authority G.S. 131E-156; 131E-157; 143-508(d)(8); Eff. January 1, 2017; Amended Eff. July 1, 2021; July 1, 2018.*
- 10A NCAC 13P .0501 EDUCATIONAL PROGRAMS**
- (a) EMS educational programs that qualify credentialed EMS personnel to perform within their scope of practice shall be offered by an EMS educational institution as set forth in Section .0600 of this Subchapter, or by an EMS educational institution in another state where the education and credentialing requirements have been approved for legal recognition by the Department pursuant to G.S. 131E-159 as determined using the professional judgment of OEMS staff following comparison of out-of-state standards with the program standards set forth in this Rule.
- (b) Educational programs approved to qualify EMS personnel for credentialing shall meet the educational content of the "US DOT NHTSA National EMS Education Standards," which is hereby incorporated by reference, including subsequent amendments and editions. This document is available online at no cost at www.ems.gov/education.html.
- (c) Educational programs approved to qualify EMS personnel for initial AEMT and Paramedic credentialing shall meet the requirements of Paragraph (b) of this Rule and possess verification of accreditation or a valid letter of review from the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or other accrediting agency determined using the professional judgment of OEMS staff following a comparison of standards. The Department shall not approve initial AEMT or Paramedic courses for educational programs that fail to meet accreditation requirements by January 1, 2023.
- (d) Educational programs approved to qualify EMD personnel for credentialing shall conform with the "ASTM F1258 – 95(2014):

Standard Practice for Emergency Medical Dispatch," which is hereby incorporated by reference including subsequent amendments and editions. This document is available from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428-2959 USA, at a cost of forty eight dollars (\$48.00) per copy.

(e) Instructional methodology courses approved to qualify Level I EMS instructors shall conform with the "US DOT NHTSA 2002 National Guidelines for Educating EMS Instructors," which is hereby incorporated by reference including subsequent amendments and additions. This document is available online at no cost at www.ems.gov/education.html.

(f) Continuing educational programs approved by the OEMS to qualify EMS personnel for renewal of credentials shall be approved by demonstrating the ability to assess cognitive competency in the skills and medications for the level of application as defined by the North Carolina Medical Board pursuant to G.S. 143-514.

(g) Refresher courses shall comply with the requirements defined in Rule .0513 of this Section.

History Note: Authority G.S. 143-508(d)(3); 143-508(d)(4); 143-514;

Temporary Adoption Eff. January 1, 2002;

Eff. January 1, 2004;

Amended Eff. January 1, 2009;

Readoption Eff. January 1, 2017;

Amended Eff. July 1, 2021.

10A NCAC 13P .0502 INITIAL CREDENTIALING REQUIREMENTS FOR EMR, EMT, AEMT, PARAMEDIC, AND EMD

(a) In order to be credentialed by the OEMS as an EMR, EMT, AEMT, or Paramedic, individuals shall:

- (1) Be at least 18 years of age. An examination may be taken at age 17; however, the EMS credential shall not be issued until the applicant has reached the age of 18.
- (2) Complete an approved educational program as set forth in Rule .0501 of this Section for their level of application.
- (3) Complete a scope of practice performance evaluation that uses performance measures based on the cognitive, psychomotor, and affective educational objectives set forth in Rule .0501 of this Section and that is consistent with their level of application, and approved by the OEMS. This scope of practice evaluation shall be completed no more than one year prior to examination. This evaluation shall be conducted by a Level I or Level II EMS Instructor credentialed at or above the level of application or under the direction of the primary credentialed EMS instructor or educational medical advisor for the approved educational program.
- (4) Within 90 days from their course graded date as reflected in the OEMS credentialing database, complete a written examination administered

by the OEMS. If the applicant fails to register and complete a written examination within the 90-day period, the applicant shall obtain a letter of authorization to continue eligibility for testing from his or her EMS Educational Institution's program coordinator to qualify for an extension of the 90-day requirement set forth in this Paragraph. If the EMS Educational Institution's program coordinator declines to provide a letter of authorization, the applicant shall be disqualified from completing the credentialing process. Following a review of the applicant's specific circumstances, OEMS staff will determine, based on professional judgment, if the applicant qualifies for EMS credentialing eligibility. The OEMS shall notify the applicant in writing within 10 business days of the decision.

- (A) a maximum of three attempts within six months shall be allowed.
- (B) if unable to pass the written examination requirement after three attempts, the educational program shall become invalid and the individual may only become eligible for credentialing by repeating the requirements set forth in Rule .0501 of this Section.

- (5) Submit to a criminal background history check as set forth in Rule .0511 of this Section.
- (6) Submit evidence of completion of all court conditions resulting from any misdemeanor or felony conviction(s).

(b) An individual seeking credentialing as an EMR, EMT, AEMT, or Paramedic may qualify for initial credentialing under the legal recognition option set forth in G.S. 131E-159(c). Individuals seeking credentialing as an AEMT or Paramedic shall submit documentation that the credential being used for application is from an educational program meeting the requirements as set forth in Rule .0501 of this Section.

(c) In order to be credentialed by the OEMS as an EMD, individuals shall:

- (1) be at least 18 years of age;
- (2) complete the educational requirements set forth in Rule .0501 of this Section;
- (3) complete, within one year prior to application, an AHA CPR course or a course determined by the OEMS to be equivalent to the AHA CPR course, including infant, child, and adult CPR;
- (4) submit to a criminal background history check as defined in Rule .0511 of this Section;
- (5) submit evidence of completion of all court conditions resulting from any misdemeanor or felony conviction(s); and
- (6) possess an EMD nationally recognized credential pursuant to G.S. 131E-159(d).

(d) Pursuant to G.S. 131E-159(h), the Department shall not issue an EMS credential for any person listed on the Department of Public Safety, Sex Offender and Public Protection Registry, or

who was convicted of an offense that would have required registration if committed at a time when registration would have been required by law.

History Note: Authority G.S. 131E-159(a); 131E-159(b); 131E-159(g); 131E-159(h); 143-508(d)(3); 143B-952; Temporary Adoption Eff. January 1, 2002; Eff. February 1, 2004; Amended Eff. January 1, 2009; Readopted Eff. January 1, 2017; Amended Eff. July 1, 2021.

10A NCAC 13P .0504 RENEWAL OF CREDENTIALS FOR EMR, EMT, AEMT, PARAMEDIC, AND EMD

(a) EMR, EMT, AEMT, and Paramedic applicants shall renew credentials by meeting the following criteria:

- (1) presenting documentation to the OEMS or an approved EMS educational institution or program as set forth in Rule .0601 or .0602 of this Subchapter that they have completed an approved educational program as described in Rule .0501 of this Section;
- (2) submit to a criminal background history check as set forth in Rule .0511 of this Section;
- (3) submit evidence of completion of all court conditions resulting from applicable misdemeanor or felony conviction(s); and
- (4) be a resident of North Carolina or affiliated with an EMS provider approved by the Department.

(b) An individual may renew credentials by presenting documentation to the OEMS that he or she holds a valid EMS credential for his or her level of application issued by the National Registry of Emergency Medical Technicians or by another state where the education and credentialing requirements have been determined by OEMS staff in their professional judgment to be equivalent to the educations and credentialing requirements set forth in this Section.

(c) EMD applicants shall renew credentials by presenting documentation to the OEMS that he or she holds a valid EMD credential issued by a national credentialing agency using the education criteria set forth in Rule .0501 of this Section.

(d) Upon request, an EMS professional may renew at a lower credentialing level by meeting the requirements defined in Paragraph (a) of this Rule. To restore the credential held at the higher level, the individual shall meet the requirements set forth in Rule .0512 of this Section.

(e) EMS credentials may not be renewed through a local credentialed institution or program more than 90 days prior to the date of expiration.

(f) Pursuant to G.S. 150B-3(a), if an applicant makes a timely and sufficient application for renewal, the EMS credential shall not expire until a decision on the credential is made by the Department. If the application is denied, the credential shall remain effective until the last day for applying for judicial review of the Department's order.

(g) Pursuant to G.S. 131E-159(h), the Department shall not renew the EMS credential for any person listed on the North Carolina Department of Public Safety, Sex Offender and Public Protection Registry, or who was convicted of an offense that would have

required registration at a time when registration would have been required by law.

History Note: Authority G.S. 131E-159(a); 131E-159(g); 131E-159(h); 143-508(d)(3); 143B-952; 150B-3(a); Temporary Adoption Eff. January 1, 2002; Eff. February 1, 2004; Amended Eff. January 1, 2009; Readopted Eff. January 1, 2017; Amended Eff. July 1, 2021.

10A NCAC 13P .0507 INITIAL CREDENTIALING REQUIREMENTS FOR LEVEL I EMS INSTRUCTORS

(a) Applicants for credentialing as a Level I EMS Instructor shall:

- (1) be currently credentialed by the OEMS as an EMT, AEMT, or Paramedic;
- (2) have completed post-secondary level education equal to or exceeding a minimum of an Associate Degree from an institution accredited by an approved agency listed on the U.S. Department of Education website, www.ed.gov:
 - (A) The Department shall accept degrees from programs accredited by the Accreditation Commission for Education in Nursing (ACEN) and the Commission on Accreditation of Allied Health Education Programs.
 - (B) Additional degrees may be accepted based on the professional judgment of OEMS staff following a comparison of standards;
- (3) have three years experience at the scope of practice for the level of application;
- (4) within one year prior to application, complete an in-person evaluation that demonstrates the applicant's ability to provide didactic and clinical instruction based on the cognitive, psychomotor, and affective educational objectives in Rule .0501 of this Section consistent with their level of application and approved by the OEMS:
 - (A) for a credential to teach at the EMT level, this evaluation shall be conducted under the direction of a Level II EMS Instructor credentialed at or above the level of application; and
 - (B) for a credential to teach at the AEMT or Paramedic level, this evaluation shall be conducted under the direction of the educational medical advisor, or a Level II EMS Instructor credentialed at or above the level of application and designated by the educational medical advisor;
- (5) have 100 hours of teaching experience at or above the level of application in an approved EMS educational program or a program

determined by OEMS staff in their professional judgment equivalent to an EMS education program;

- (6) complete an educational program as described in Rule .0501 of this Section; and
- (7) within one year prior to application, attend an OEMS Instructor workshop sponsored by the OEMS. A listing of scheduled OEMS Instructor workshops is available from the OEMS at <https://info.ncdhhs.gov/dhsr/ems>.

(b) An individual seeking credentialing for Level I EMS Instructor may qualify for initial credentialing under the legal recognition option defined in G.S. 131E-159(c).

(c) The credential of a Level I EMS Instructor shall be valid for four years, or less pursuant to G.S. 131E-159(c), unless any of the following occurs:

- (1) the OEMS imposes an administrative action against the instructor credential; or
- (2) the instructor fails to maintain a current EMT, AEMT, or Paramedic credential at the highest level that the instructor is approved to teach.

(d) Pursuant to the provisions of G.S. 131E-159(h), the Department shall not issue an EMS credential for any person listed on the Department of Public Safety, Sex Offender and Public Protection Registry, or who was convicted of an offense that would have required registration if committed at a time when registration would have been required by law.

*History Note: Authority G.S. 131E-159; 143-508(d)(3);
Temporary Adoption Eff. January 1, 2002;
Eff. February 1, 2004;
Amended Eff. January 1, 2009;
Readopted Eff. January 1, 2017;
Amended Eff. January 1, 2022; September 1, 2019.*

10A NCAC 13P .0508 INITIAL CREDENTIALING REQUIREMENTS FOR LEVEL II EMS INSTRUCTORS

(a) Applicants for credentialing as a Level II EMS Instructor shall:

- (1) be currently credentialed by the OEMS as an EMT, AEMT, or Paramedic;
- (2) be currently credentialed by the OEMS as a Level I Instructor at the EMT, AEMT, or Paramedic level;
- (3) have completed post-secondary level education equal to or exceeding a Bachelor's Degree from an institution accredited by an approved agency listed on the U.S. Department of Education website, www.ed.gov:
 - (A) The Department shall accept degrees from programs accredited by the Accreditation Commission for Education in Nursing (ACEN) and the Commission on Accreditation of Allied Health Education Programs.
 - (B) Additional degrees may be accepted based on the professional judgment of OEMS staff following a comparison of standards;

(4) within one year prior to application, complete an in-person evaluation that demonstrates the applicant's ability to provide didactic and clinical instruction based on the cognitive, psychomotor, and affective educational objectives in Rule .0501 of this Section consistent with their level of application and approved by the OEMS:

- (A) for a credential to teach at the EMT level, this evaluation shall be conducted under the direction of a Level II EMS Instructor credentialed at or above the level of application; and
- (B) for a credential to teach at the AEMT or Paramedic level, this evaluation shall be conducted under the direction of the educational medical advisor, or a Level II EMS Instructor credentialed at or above the level of application and designated by the educational medical advisor;

(5) a minimum two concurrent years teaching experience as a Level I EMS Instructor at or above the level of application, or as a Level II EMS Instructor at a lesser credential level applying for a higher level in an approved EMS educational program, or teaching experience determined by OEMS staff in their professional judgment to be equivalent to an EMS Level I education program;

(6) complete the "EMS Education Administration Course" conducted by a North Carolina Community College or the National Association of EMS Educators Level II Instructor Course that is valid for the duration of the active Level II Instructor credential; and

(7) within one year prior to application, attend an OEMS Instructor workshop sponsored by the OEMS. A listing of scheduled OEMS Instructor workshops is available from the OEMS at <https://info.ncdhhs.gov/dhsr/ems>.

(b) An individual seeking credentialing for Level II EMS Instructor may qualify for initial credentialing under the legal recognition option defined in G.S. 131E-159(c).

(c) The credential of a Level II EMS Instructor is valid for four years, or less pursuant to G.S. 131E-159(c), unless any of the following occurs:

- (1) the OEMS imposes an administrative action against the instructor credential; or
- (2) the instructor fails to maintain a current EMT, AEMT, or Paramedic credential at the highest level that the instructor is approved to teach.

(d) Pursuant to the provisions of G.S. 131E-159(h) the Department shall not issue an EMS credential for any person listed on the Department of Public Safety, Sex Offender and Public Protection Registry, or who was convicted of an offense that would have required registration if committed at a time when registration would have been required by law.

History Note: Authority G.S. 131E-159; 143-508(d)(3);
Temporary Adoption Eff. January 1, 2002;
Eff. February 1, 2004;
Amended Eff. January 1, 2009;
Readopted Eff. January 1, 2017;
Amended Eff. January 1, 2022; September 1, 2019.

**10A NCAC 13P .0510 RENEWAL OF CREDENTIALS
 FOR LEVEL I AND LEVEL II EMS INSTRUCTORS**

(a) Level I and Level II EMS Instructor applicants shall renew credentials by presenting documentation to the OEMS that they:

- (1) are credentialed by the OEMS as an EMT, AEMT, or Paramedic;
- (2) within one year prior to application, complete an evaluation that demonstrates the applicant's ability to provide didactic and clinical instruction based on the cognitive, psychomotor, and affective educational objectives in Rule .0501 of this Section consistent with their level of application and approved by the OEMS:
 - (A) to renew a credential to teach at the EMT level, this evaluation shall be conducted under the direction of a Level II EMS Instructor credentialed at or above the level of application; and
 - (B) to renew a credential to teach at the AEMT or Paramedic level, this evaluation shall be conducted under the direction of the educational medical advisor, or a Level II EMS Instructor credentialed at or above the level of application and designated by the educational medical advisor;
- (3) completed 96 hours of EMS instruction at the level of application. Individuals identified as EMS program coordinators or positions as determined by OEMS staff in their professional judgment to the equivalent to an EMS program coordinator may provide up to 72 hours related to the institution's needs, with the remaining 24 hours in EMS instruction;
- (4) completed 24 hours of educational professional development as defined by the educational institution that provides for:
 - (A) enrichment of knowledge;
 - (B) development or change of attitude in students; or
 - (C) acquisition or improvement of skills; and
- (5) within one year prior to renewal application, attend an OEMS Instructor workshop sponsored by the OEMS.

(b) An individual may renew a Level I or Level II EMS Instructor credential under the legal recognition option defined in G.S. 131E-159(c).

(c) The credential of a Level I or Level II EMS Instructor is valid for four years, or less pursuant to G.S. 131E-159(c) unless any of the following occurs:

- (1) the OEMS imposes an administrative action against the instructor credential; or
- (2) the instructor fails to maintain a current EMT, AEMT, or Paramedic credential at the highest level that the instructor is approved to teach.

(d) Pursuant to the provisions of G.S. 131E-159(h), the Department shall not issue an EMS credential for any person listed on the Department of Public Safety, Sex Offender and Public Protection Registry, or who was convicted of an offense that would have required registration if committed at a time when registration would have been required by law.

History Note: Authority G.S. 131E-159(a); 131E-159(b); 143-508(d)(3);
Eff. February 1, 2004;
Amended Eff. February 1, 2009;
Readopted Eff. January 1, 2017;
Amended Eff. July 1, 2021.

**10A NCAC 13P .0512 REINSTATEMENT OF LAPSED
 EMS CREDENTIAL**

(a) EMS personnel enrolled in an OEMS approved continuing education program as set forth in Rule .0601 of this Subchapter and who were eligible for renewal of an EMS credential prior to expiration, may request the EMS educational institution submit documentation of the continuing education record to the OEMS. OEMS shall renew the EMS credential to be valid for four years from the previous expiration date.

(b) An individual with a lapsed North Carolina EMS credential is eligible for reinstatement through the legal recognition option defined in G.S. 131E-159(c) and Rule .0502 of this Section.

(c) EMR, EMT, AEMT, and Paramedic applicants for reinstatement of an EMS credential, lapsed up to 36 months, shall:

- (1) be ineligible for legal recognition pursuant to G.S. 131E-159(c);
- (2) be a resident of North Carolina or affiliated with a North Carolina EMS Provider;
- (3) at the time of application, present evidence that renewal education requirements were met prior to expiration or complete a refresher course at the level of application taken following expiration of the credential;
- (4) complete an OEMS administered written examination for the individual's level of credential application;
- (5) undergo a criminal history check performed by the OEMS; and
- (6) submit evidence of completion of all court conditions resulting from applicable misdemeanor or felony conviction(s).

(d) EMR, EMT, AEMT, and Paramedic applicants for reinstatement of an EMS credential, lapsed more than 36 months, shall:

- (1) be ineligible for legal recognition pursuant to G.S. 131E-159(c); and

- (2) meet the provisions for initial credentialing set forth in Rule .0502 of this Section.
- (e) EMT, AEMT, and Paramedic applicants for reinstatement of an EMS Instructor Credential, lapsed up to 12 months, shall:
 - (1) be ineligible for legal recognition pursuant to G.S. 131E-159(c);
 - (2) be a resident of North Carolina or affiliated with a North Carolina EMS Provider; and
 - (3) at the time of application, present evidence that renewal requirements were met prior to expiration or within six months following the expiration of the Instructor credential.
- (f) EMT, AEMT, and Paramedic applicants for reinstatement of an EMS Instructor credential, lapsed greater than 12 months, shall:
 - (1) be ineligible for legal recognition pursuant to G.S. 131E-159(c); and
 - (2) meet the requirements for initial Instructor credentialing set forth in Rules .0507 and .0508 of this Section. Degree requirements that were not applicable to EMS Instructors initially credentialed prior to July 1, 2021 shall be required for reinstatement of a lapsed credential.
- (g) EMD applicants shall renew a lapsed credential by meeting the requirements for initial credentialing set forth in Rule .0502 of this Section.
- (h) Pursuant to G.S. 131E-159(h), the Department shall not issue or renew an EMS credential for any person listed on the Department of Public Safety, Sex Offender and Public Protection Registry, or who was convicted of an offense that would have required registration if committed at a time when registration would have been required by law.

History Note: Authority G.S. 131E-159; 143-508(d)(3); 143B-952;
Eff. January 1, 2017;
Amended Eff. July 1, 2021.

**10A NCAC 13P .0601 CONTINUING EDUCATION
 EMS EDUCATIONAL PROGRAM REQUIREMENTS**

- (a) Continuing Education EMS Educational Programs shall be credentialed by the OEMS to provide only EMS continuing education. An application for credentialing as an approved EMS continuing education program shall be submitted to the OEMS for review.
- (b) Continuing Education EMS Educational Programs shall have:
 - (1) at least a Level I EMS Instructor as program coordinator and shall hold a Level I EMS Instructor credential at a level equal to or greater than the highest level of continuing education program offered in the EMS System, Specialty Care Transport Program, or Agency;
 - (2) a continuing education program shall be consistent with the services offered by the EMS System, Specialty Care Transport Program, or Agency;
 - (A) In an EMS System, the continuing education programs shall be reviewed

- and approved by the system continuing education coordinator and Medical Director;
- (B) In a Specialty Care Transport Program, the continuing education program shall be reviewed and approved by Specialty Care Transport Program Continuing Education Coordinator and the Medical Director; and
- (C) In an Agency not affiliated with an EMS System or Specialty Care Transport Program, the continuing education program shall be reviewed and approved by the Agency Program Medical Director;
- (3) written educational policies and procedures to include each of the following:
 - (A) the delivery of educational programs in a manner where the content and material is delivered to the intended audience, with a limited potential for exploitation of such content and material;
 - (B) the record-keeping system of student attendance and performance;
 - (C) the selection and monitoring of EMS instructors; and
 - (D) student evaluations of faculty and the program's courses or components, and the frequency of the evaluations;
- (4) access to instructional supplies and equipment necessary for students to complete educational programs as defined in Rule .0501 of this Subchapter;
- (5) meet the educational program requirements as defined in Rule .0501 of this Subchapter;
- (6) Upon request, the approved EMS continuing education program shall provide records to the OEMS in order to verify compliance and student eligibility for credentialing; and
- (7) approved education program credentials are valid for a period not to exceed four years.
- (c) Program coordinators shall attend an OEMS Program Coordinator workshop annually. A listing of scheduled OEMS Program Coordinator Workshops is available at <https://emspic.org>.
- (d) Assisting physicians delegated by the EMS System Medical Director as authorized by Rule .0403 of this Subchapter or SCTP Medical Director as authorized by Rule .0404 of this Subchapter for provision of medical oversight of continuing education programs must meet the Education Medical Advisor criteria as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight."

History Note: Authority G.S. 143-508(d)(4); 143-508(d)(13);
Temporary Adoption Eff. January 1, 2002;
Eff. January 1, 2004;
Amended Eff. January 1, 2009;

*Readopted Eff. January 1, 2017;
Amended Eff. July 1, 2021.*

10A NCAC 13P .0602 BASIC AND ADVANCED EMS EDUCATIONAL INSTITUTION REQUIREMENTS

(a) Basic and Advanced EMS Educational Institutions may offer educational programs for which they have been credentialed by the OEMS.

- (1) EMS Educational Institutions shall complete a minimum of two initial courses at the highest level educational program approved for the Educational Institution's credential approval period.
- (2) EMS Educational Institutions that do not complete two initial courses for each educational program approved shall be subject to action as set forth in Rule .1505 of this Subchapter.

(b) For initial courses, Basic EMS Educational Institutions shall meet all of the requirements for continuing EMS educational programs defined in Rule .0601 of this Section and shall have:

- (1) at least a Level I EMS Instructor as each lead course instructor for all courses. The lead course instructor must be credentialed at a level equal to or higher than the course and shall meet the lead instructor responsibilities under Standard III of the CAAHEP Standards and Guidelines for the Accreditation of Educational Programs in the Emergency Medical Services Professions. The lead instructor shall:
 - (A) perform duties assigned under the direction and delegation of the program director.
 - (B) assist in coordination of the didactic, lab, clinical, and field internship instruction.
- (2) a lead EMS educational program coordinator. This individual shall be a Level II EMS Instructor credentialed at or above the highest level of course offered by the institution, and:
 - (A) have EMS or related allied health education, training, and experience;
 - (B) be knowledgeable about methods of instruction, testing, and evaluation of students;
 - (C) have field experience in the delivery of pre-hospital emergency care;
 - (D) have academic training and preparation related to emergency medical services, at least equivalent to that of a paramedic; and
 - (E) be knowledgeable of current versions of the National EMS Scope of Practice and National EMS Education Standards as defined by USDOT NHTSA National EMS, evidence-informed clinical practice, and incorporated by Rule .0501 of this Section;

- (3) a lead EMS educational program coordinator responsible for the following:
 - (A) the administrative oversight, organization, and supervision of the program;
 - (B) the continuous quality review and improvement of the program;
 - (C) the long-range planning on ongoing development of the program;
 - (D) evaluating the effectiveness of the instruction, faculty, and overall program;
 - (E) the collaborative involvement with the Education Medical Advisor;
 - (F) the training and supervision of clinical and field internship preceptors; and
 - (G) the effectiveness and quality of fulfillment of responsibilities delegated to another qualified individual;
- (4) written educational policies and procedures that include:
 - (A) the written educational policies and procedures set forth in Rule .0601 of this Section;
 - (B) the delivery of cognitive and psychomotor examinations in a manner that will protect and limit the potential for exploitation of such content and material;
 - (C) the exam item validation process utilized for the development of validated cognitive examinations;
 - (D) the selection and monitoring of all in-state and out-of-state clinical education and field internship sites;
 - (E) the selection and monitoring of all educational institutionally approved clinical education and field internship preceptors;
 - (F) utilization of EMS preceptors providing feedback to the student and EMS program;
 - (G) the evaluation of preceptors by their students, including the frequency of evaluations;
 - (H) the evaluation of the clinical education and field internship sites by their students, including the frequency of evaluations; and
 - (I) completion of an annual evaluation of the program to identify any correctable deficiencies;
- (5) an Educational Medical Advisor that meets the criteria as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection" who is responsible for the following:
 - (A) medical oversight of the program;

- (B) collaboration to provide appropriate and updated educational content for the program curriculum;
- (C) establishing minimum requirements for program completion;
- (D) oversight of student evaluation, monitoring, and remediation as needed;
- (E) ensuring entry level competence;
- (F) ensuring interaction of physician and students; and
- (6) written educational policies and procedures describing the delivery of educational programs, the record-keeping system detailing student attendance and performance, and the selection and monitoring of EMS instructors.

(c) For initial courses, Advanced Educational Institutions shall meet all requirements set forth in Paragraph (b) of this Rule, Standard III of the CAAHEP Standards and Guidelines for the Accreditation of Educational Programs in the Emergency Medical Services Professions shall apply, and;

- (1) The faculty must be knowledgeable in course content and effective in teaching their assigned subjects, and capable through academic preparation, training, and experience to teach the courses or topics to which they are assigned.
- (2) A faculty member to assist in teaching and clinical coordination in addition to the program coordinator.

(d) Basic and Advanced EMS Educational Institution credentials shall be valid for a period of four years, unless the institution is accredited in accordance with Rule .0605 of this Section.

History Note: Authority G.S. 143-508(d)(4); 143-508(d)(13); Temporary Adoption Eff. January 1, 2002; Eff. January 1, 2004; Amended Eff. January 1, 2009; Readopted Eff. January 1, 2017; Amended Eff. July 1, 2021.

10A NCAC 13P .0905 RENEWAL DESIGNATION PROCESS

(a) Hospitals may utilize one of two options to achieve Trauma Center renewal:

- (1) undergo a site visit conducted by OEMS to obtain a four-year renewal designation; or
- (2) undergo a verification visit by the ACS, in conjunction with the OEMS, to obtain a three-year renewal designation.

(b) For hospitals choosing Subparagraph (a)(1) of this Rule:

- (1) prior to the end of the designation period, the OEMS shall forward to the hospital an RFP for completion. The hospital shall, within 10 business days of receipt of the RFP, define for OEMS the Trauma Center's trauma primary catchment area.
- (2) hospitals shall complete and submit an electronic copy of the RFP to the OEMS and the specified site surveyors at least 30 days prior to

the site visit. The RFP shall include information that supports compliance with the criteria contained in Rule .0901 of this Section as it relates to the Trauma Center's level of designation.

- (3) all criteria defined in Rule .0901 of this Section, as it relates to the Trauma Center's level of designation, shall be met for renewal designation.
- (4) a site visit shall be conducted within 120 days prior to the end of the designation period. The hospital and the OEMS shall agree on the date of the site visit.
- (5) the composition of a Level I or II site survey team shall be the same as that specified in Rule.0904(k) of this Section.
- (6) the composition of a Level III site survey team shall be the same as that specified in Rule .0904(l) of this Section.
- (7) on the day of the site visit, the hospital shall make available all requested patient medical charts.
- (8) the primary reviewer of the site review team shall give a verbal post-conference report representing a consensus of the site review team. The primary reviewer shall complete and submit to the OEMS a written consensus report within 30 days of the site visit.
- (9) the report of the site survey team and a staff recommendation shall be reviewed by the NC Emergency Medical Services Advisory Council at its next regularly scheduled meeting following the site visit. Based upon the site visit report and the staff recommendation, the NC Emergency Medical Services Advisory Council shall recommend to the OEMS that the request for Trauma Center renewal be:
 - (A) approved;
 - (B) approved with a contingency(ies) due to a deficiency(ies) requiring a focused review;
 - (C) approved with a contingency(ies) not due to a deficiency(ies) requiring a consultative visit; or
 - (D) denied.

(10) hospitals with a deficiency(ies) shall have up to 10 business days prior to the NC Emergency Medical Services Advisory Council meeting to provide documentation to demonstrate compliance. If the hospital has a deficiency that cannot be corrected in this period prior to the NC Emergency Medical Services Advisory Council meeting, the hospital shall be given 12 months by the OEMS to demonstrate compliance and undergo a focused review that may require an additional site visit. The need for an additional site visit is on a case-by-case basis based on the type of deficiency. The hospital shall retain its Trauma Center

designation during the focused review period. If compliance is demonstrated within the prescribed time period, the hospital shall be granted its designation for the four-year period from the previous designation's expiration date. If compliance is not demonstrated within the 12 month time period, the Trauma Center designation shall not be renewed. To become redesignated, the hospital shall submit an updated RFP and follow the initial applicant process outlined in Rule .0904 of this Section.

- (11) the final decision regarding trauma center renewal shall be rendered by the OEMS.
- (12) the OEMS shall notify the hospital in writing of the NC Emergency Medical Services Advisory Council's and OEMS' final recommendation within 30 days of the NC Emergency Medical Services Advisory Council meeting.
- (13) hospitals with a deficiency(ies) shall submit an action plan to the OEMS to address the deficiency(ies) within 10 business days following receipt of the written final decision on the trauma recommendations.

(c) For hospitals choosing Subparagraph (a)(2) of this Rule:

- (1) at least six months prior to the end of the Trauma Center's designation period, the trauma center shall notify the OEMS of its intent to undergo an ACS verification visit. It shall simultaneously define in writing to the OEMS its trauma primary catchment area. Trauma Centers choosing this option shall then comply with all the ACS' verification procedures, as well as any additional state criteria as defined in Rule .0901 of this Section, that apply to their level of designation.
- (2) when completing the ACS' documentation for verification, the Trauma Center shall ensure access to the ACS on-line PRQ (pre-review questionnaire) to OEMS. The Trauma Center shall simultaneously complete any documents supplied by OEMS and forward these to the OEMS.
- (3) the Trauma Center shall make sure the site visit is scheduled to ensure that the ACS' final written report, accompanying medical record reviews and cover letter are received by OEMS at least 30 days prior to a regularly scheduled NC Emergency Medical Services Advisory Council meeting to ensure that the Trauma Center's state designation period does not terminate without consideration by the NC Emergency Medical Services Advisory Council.
- (4) any in-state review for a hospital choosing Subparagraph (a)(2) of this Rule, except for the OEMS staff, shall be from outside the local or adjacent RAC in which the hospital is located.
- (5) the composition of a Level I, II, or III site survey team for hospitals choosing

Subparagraph (a)(2) of this Rule shall be as follows:

- (A) one out-of-state trauma surgeon who is a Fellow of the ACS, experienced as a site surveyor, who shall be the primary reviewer;
 - (B) one out-of-state emergency physician who works in a designated trauma center, is a member of the American College of Emergency Physicians or the American Academy of Emergency Medicine, and is boarded in emergency medicine by the American Board of Emergency Physicians or the American Osteopathic Board of Emergency Medicine;
 - (C) one out-of-state trauma program manager with an equivalent license from another state; and
 - (D) OEMS staff.
- (6) the date, time, and all proposed members of the site visit team shall be submitted to the OEMS for review at least 45 days prior to the site visit. The OEMS shall approve the site visit schedule if the schedule does not conflict with the ability of attendance by required OEMS staff. The OEMS shall approve the proposed site visit team members if the OEMS determines there is no conflict of interest, such as previous employment, by any site visit team member associated with the site visit.
 - (7) all state Trauma Center criteria shall be met as defined in Rule .0901 of this Section for renewal of state designation. ACS' verification is not required for state designation. ACS' verification does not ensure a state designation.
 - (8) The ACS final written report and supporting documentation described in Subparagraph (c)(4) of this Rule shall be used to generate a report following the post conference meeting for presentation to the NC Emergency Medical Services Advisory Council for renewal designation.
 - (9) the final written report issued by the ACS' verification review committee, the accompanying medical record reviews from which all identifiers shall be removed and cover letter shall be forwarded to OEMS within 10 business days of its receipt by the Trauma Center seeking renewal.
 - (10) the OEMS shall present its summary of findings report to the NC Emergency Medical Services Advisory Council at its next regularly scheduled meeting. The NC Emergency Medical Services Advisory Council shall recommend to the Chief of the OEMS that the request for Trauma Center renewal be:
 - (A) approved;

- (B) approved with a contingency(ies) due to a deficiency(ies) requiring a focused review;
- (C) approved with a contingency(ies) not due to a deficiency(ies); or
- (D) denied.
- (11) the OEMS shall send the hospital written notice of the NC Emergency Medical Services Advisory Council's and OEMS' final recommendation within 30 days of the NC Emergency Medical Services Advisory Council meeting.
- (12) the final decision regarding trauma center designation shall be rendered by the OEMS.
- (13) hospitals with contingencies as the result of a deficiency(ies), as determined by OEMS, shall have up to 10 business days prior to the NC Emergency Medical Services Advisory Council meeting to provide documentation to demonstrate compliance. If the hospital has a deficiency that cannot be corrected in this time period, the hospital, may undergo a focused review to be conducted by the OEMS whereby the Trauma Center shall be given 12 months by the OEMS to demonstrate compliance. Satisfaction of contingency(ies) may require an additional site visit. The need for an additional site visit is on a case-by-case basis based on the type of deficiency. The hospital shall retain its Trauma Center designation during the focused review period. If compliance is demonstrated within the prescribed time period, the hospital shall be granted its designation for the three-year period from the previous designation's expiration date. If compliance is not demonstrated within the 12 month time period, the Trauma Center designation shall not be renewed. To become redesignated, the hospital shall submit a new RFP and follow the initial applicant process outlined in Rule .0904 of this Section.
- (14) hospitals with a deficiency(ies) shall submit an action plan to the OEMS to address the deficiency(ies) within 10 business days following receipt of the written final decision on the trauma recommendations.

(d) If a Trauma Center currently using the ACS' verification process chooses not to renew using this process, it must notify the OEMS at least six months prior to the end of its state trauma center designation period of its intention to exercise the option in Subparagraph (a)(1) of this Rule. Upon notification, the OEMS shall extend the designation for one additional year to ensure consistency with hospitals using Subparagraph (a)(1) of this Rule.

History Note: Authority G.S. 131E-162; 143-508(d)(2); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. April 1, 2009; January 1, 2009; January 1, 2004; Readoption Eff. January 1, 2017;

Amended Eff. July 1, 2021.

10A NCAC 13P .1101 STATE TRAUMA SYSTEM

- (a) The State trauma system shall consist of regional plans, policies, guidelines, and performance improvement initiatives by the RACs to create an Inclusive Trauma System monitored by the OEMS.
- (b) Each hospital and EMS System shall affiliate as defined in Rule .0102 of this Subchapter and participate with the RAC that includes the Level I or II Trauma Center where the majority of trauma patient referrals and transports occur. Each hospital and EMS System shall submit to the OEMS upon request patient transfer patterns from data sources that support the choice of their primary RAC affiliation. Each RAC shall include at least one Level I or II Trauma Center.
- (c) Each Lead RAC Coordinator shall update and submit RAC affiliation membership for hospitals and EMS Systems to the OEMS no later than July 1 of each year. Each hospital or EMS System shall submit written notification to the OEMS for any RAC affiliation change. RAC affiliation may be changed only if supported by a change in the majority of transfer patterns to a Level I or Level II Trauma Center. Documentation of these new transfer patterns shall be included in the request to change affiliation.

History Note: Authority G.S. 131E-162; Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2009; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff. July 1, 2021; January 1, 2017.

10A NCAC 13P .1401 CHEMICAL ADDICTION OR ABUSE RECOVERY PROGRAM REQUIREMENTS

- (a) The OEMS shall provide a monitoring program for aiding in the recovery of EMS personnel subject to disciplinary action for being unable to perform as credentialed EMS personnel with reasonable skill and safety to patients and the public by reason of use of alcohol, drugs, chemicals, or any other type of material as set forth in Rule .1507 of this Subchapter.
- (b) This program requires:
 - (1) an initial assessment by a healthcare professional specializing in chemical dependency approved by the program;
 - (2) a treatment plan developed by a healthcare professional specializing in chemical dependency for the individual using the findings of the initial assessment. The Department and individual will enter into a consent agreement based upon the treatment plan; and
 - (3) monitoring by OEMS program staff of the individual for compliance with the consent agreement entered into by the Department and the individual entering the program.

History Note: Authority G.S. 131E-159(f); 143-508(b); 143-508(d)(10); Eff. October 1, 2010;

*Readopted Eff. January 1, 2017;
Amended Eff. July 1, 2021.*

**10A NCAC 13P .1403 CONDITIONS FOR
RESTRICTED PRACTICE WITH LIMITED
PRIVILEGES**

(a) In order to assist in determining eligibility for an individual to return to restricted practice, completion of all requirements outlined in the individual's consent agreement with the Department as described in Rule .1401 of this Section shall be presented to the Chief of the OEMS.

(b) Individuals who have surrendered his or her EMS credential(s) as a condition of entry into the recovery program, as required in Rule .1402 of this Section, shall be reviewed by the OEMS Chief to determine if issuance of an encumbered EMS credential is warranted by the Department.

(c) In order to obtain an encumbered credential with limited privileges, an individual shall:

- (1) be compliant for a minimum of 90 consecutive days with the treatment program described in Rule .1401 of this Section; and
- (2) be recommended in writing for review by the individual's recovery healthcare professional overseeing the treatment plan developed as described in Rule .1401 of this Section.

(d) The individual shall agree to sign a consent agreement with the OEMS that details the practice restrictions and privilege limitations of the encumbered EMS credential, and that contains the consequences of failure to abide by the terms of this agreement.

(e) The individual shall be issued the encumbered credential by the OEMS within 10 business days following execution of the consent agreement described in Paragraph (d) of this Rule.

(f) The encumbered EMS credential shall be valid for a period not to exceed four years.

*History Note: Authority G.S. 131E-159(f); 143-508(b); 143-508(d)(10);
Eff. October 1, 2010;
Readopted Eff. January 1, 2017;
Amended Eff. July 1, 2021.*

**10A NCAC 13P .1404 REINSTATEMENT OF AN
UNENCUMBERED EMS CREDENTIAL**

Reinstatement of an unencumbered EMS credential is dependent upon the individual completing all requirements of the consent agreement as set forth in Rule .1401 of this Section.

*History Note: Authority G.S. 131E-159(f); 143-508(d)(10); 143-509(13);
Eff. October 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;
Amended Eff. July 1, 2021.*

**10A NCAC 13P .1405 FAILURE TO COMPLETE THE
CHEMICAL ADDICTION OR ABUSE RECOVERY
PROGRAM**

Individuals who fail to complete the consent agreement established in Rule .1401 of this Section, upon review by the OEMS, are subject to revocation of their EMS credential.

*History Note: Authority G.S. 131E-159(f); 143-508(b); 143-508(d)(10);
Eff. October 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;
Amended Eff. July 1, 2021; January 1, 2017.*

**10A NCAC 13P .1505 EMS EDUCATIONAL
INSTITUTIONS**

(a) For the purpose of this Rule, "focused review" means an evaluation by the OEMS of an educational institution's corrective actions to remove contingencies that are a result of deficiencies identified in the initial or renewal application process.

(b) The Department shall deny the initial or renewal designation, without first allowing a focused review, of an EMS Educational Institution for any of the following reasons:

- (1) significant failure to comply with the provisions of Sections .0500 and .0600 of this Subchapter; or
- (2) attempting to obtain an EMS Educational Institution designation through fraud or misrepresentation.

(c) When an EMS Educational Institution is required to have a focused review, it shall demonstrate compliance with the provisions of Sections .0500 and .0600 of this Subchapter within six months or less.

(d) The Department shall amend, suspend, or revoke an EMS Educational Institution designation at any time whenever the Department finds that the EMS Educational Institution has significant failure to comply, as defined in Rule .0102 of this Subchapter, with the provisions of Section .0600 of this Subchapter, and:

- (1) it is not probable that the EMS Educational Institution can remedy the deficiencies within six months or less as determined by OEMS staff based upon analysis of the educational institution's ability to take corrective measures to resolve the issue of non-compliance with Section .0600 of this Subchapter;
- (2) although the EMS Educational Institution may be able to remedy the deficiencies, it is not probable that the EMS Educational Institution shall be able to remain in compliance with credentialing rules;
- (3) failure to produce records upon request as required in Rule .0601 of this Subchapter;
- (4) the EMS Educational Institution failed to meet the requirements of a focused review within six months, as set forth in Paragraph (c) of this Rule;
- (5) the failure to comply endangered the health, safety, or welfare of patients cared for as part of

an EMS educational program as determined by OEMS staff in their professional judgment based upon a complaint investigation, in consultation with the Department and Department of Justice, to verify the results of the investigations are sufficient to initiate enforcement action pursuant to G.S. 150B; or

(6) the EMS Educational Institution altered, destroyed, or attempted to destroy evidence needed for a complaint investigation.

(e) The Department shall give the EMS Educational Institution written notice of action taken on the Institution designation. This notice shall be given personally or by certified mail and shall set forth:

- (1) the factual allegations;
- (2) the statutes or rules alleged to be violated; and
- (3) notice of the EMS Educational Institution's right to a contested case hearing, set forth in Rule .1509 of this Section, on the revocation of the designation.

(f) Focused review is not a procedural prerequisite to the revocation of a designation as set forth in Rule .1509 of this Section.

(g) If determined by the educational institution that suspending its approval to offer EMS educational programs is necessary, the EMS Educational Institution may voluntarily surrender its credential without explanation by submitting a written request to the OEMS stating its intention. The voluntary surrender shall not affect the original expiration date of the EMS Educational Institution's designation. To reactivate the designation:

- (1) the institution shall provide OEMS written documentation requesting reactivation; and
- (2) the OEMS shall verify the educational institution is compliant with all credentialing requirements set forth in Section .0600 of this Subchapter prior to reactivation of the designation by the OEMS.

(h) If the institution fails to resolve the issues that resulted in a voluntary surrender, the Department shall revoke the EMS Educational Institution designation.

(i) In the event of a revocation or voluntary surrender, the Department shall provide written notification to all EMS Systems within the EMS Educational Institution's defined service area. The Department shall provide written notification to all EMS Systems within the EMS Educational Institution's defined service area when the voluntary surrender reactivates to full credential.

(j) When an accredited EMS Educational Institution as defined in Rule .0605 of this Subchapter has administrative action taken against its accreditation, the OEMS shall determine if the cause of action is sufficient for revocation of the EMS Educational Institution designation or imposing a focused review pursuant to Paragraphs (b) and (c) of this Rule is warranted.

History Note: Authority G.S. 143-508(d)(4); 143-508(d)(10); Eff. January 1, 2013;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;

Amended Eff. July 1, 2021; July 1, 2018; January 1, 2017.

10A NCAC 13P .1507 EMS PERSONNEL CREDENTIALS

(a) Any EMS credential that has been forfeited under G.S. 15A-1331.1 may not be reinstated until the person has complied with the court's requirements, has petitioned the Department for reinstatement, has completed the disciplinary process, and has received Department reinstatement approval.

(b) The Department shall amend, deny, suspend, or revoke the credentials of EMS personnel for any of the following:

- (1) significant failure to comply with the applicable performance and credentialing requirements as found in this Subchapter;
- (2) making false statements or representations to the Department, or concealing information in connection with an application for credentials;
- (3) making false statements or representations, concealing information, or failing to respond to inquiries from the Department during a complaint investigation;
- (4) tampering with, or falsifying any record used in the process of obtaining an initial EMS credential, or in the renewal of an EMS credential;
- (5) in any manner or using any medium, engaging in the stealing, manipulating, copying, reproducing, or reconstructing of any written EMS credentialing examination questions, or scenarios;
- (6) cheating, or assisting others to cheat while preparing to take, or when taking a written EMS credentialing examination;
- (7) altering an EMS credential, using an EMS credential that has been altered, or permitting or allowing another person to use his or her EMS credential for the purpose of alteration. "Altering" includes changing the name, expiration date, or any other information appearing on the EMS credential;
- (8) unprofessional conduct, including a significant failure to comply with the rules relating to the function of credentialed EMS personnel contained in this Subchapter, or the performance of or attempt to perform a procedure that is detrimental to the health and safety of any person, or that is beyond the scope of practice of credentialed EMS personnel or EMS instructors;
- (9) being unable to perform as credentialed EMS personnel with reasonable skill and safety to patients and the public by reason of illness that will compromise skill and safety, use of alcohol, drugs, chemicals, or any other type of material, or by reason of any physical impairment;
- (10) conviction in any court of a crime involving moral turpitude, a conviction of a felony, a conviction requiring registering on a sex offender registry, or conviction of a crime

- (11) involving the scope of practice of credentialed EMS personnel;
 - (12) by theft or false representations, obtaining or attempting to obtain, money or anything of value from a patient, EMS Agency, or educational institution;
 - (13) adjudication of mental incompetence;
 - (14) lack of competence to practice with a reasonable degree of skill and safety for patients, including a failure to perform a prescribed procedure, failure to perform a prescribed procedure competently, or performance of a procedure that is not within the scope of practice of credentialed EMS personnel or EMS instructors;
 - (15) performing as a credentialed EMS personnel in any EMS System in which the individual is not affiliated and authorized to function;
 - (16) performing or authorizing the performance of procedures, or administration of medications detrimental to a student or individual;
 - (17) delay or failure to respond when on-duty and dispatched to a call for EMS assistance;
 - (18) testing positive, whether for-cause or at random, through urine, blood, or breath sampling, for any substance, legal or illegal, that is likely to impair the physical or psychological ability of the credentialed EMS personnel to perform all required or expected functions while on duty;
 - (19) failure to comply with G.S. 143-518 regarding the use or disclosure of records or data associated with EMS Systems, Specialty Care Transport Programs, Alternative Practice Settings, or patients;
 - (20) refusing to consent to any criminal history check required by G.S. 131E-159;
 - (21) abandoning or neglecting a patient who is in need of care, without making arrangements for the continuation of such care;
 - (22) falsifying a patient's record or any controlled substance records;
 - (23) harassing, abusing, or intimidating a patient, student, bystander, or OEMS staff, either physically, verbally, or in writing;
 - (24) engaging in any activities of a sexual nature with a patient, including kissing, fondling, or touching while responsible for the care of that individual;
 - (25) any criminal arrests that involve charges that have been determined by the Department to indicate a necessity to seek action in order to further protect the public pending adjudication by a court;
 - (26) altering, destroying, or attempting to destroy evidence needed for a complaint investigation being conducted by the OEMS;
 - (27) significant failure to comply with a condition to the issuance of an encumbered EMS credential with limited and restricted practices for persons in the chemical addiction or abuse treatment program;
 - (28) unauthorized possession of lethal or non-lethal weapons, chemical irritants to include mace, pepper (oleoresin capsicum) spray and tear gas, or explosives while in the performance of providing emergency medical services;
 - (29) significant failure to comply to provide EMS care records to the licensed EMS provider for submission to the OEMS as required by Rule .0204 of this Subchapter;
 - (30) continuing to provide EMS care after local suspension of practice privileges by the local EMS System, Medical Director, or Alternative Practice Setting;
 - (31) representing or allowing others to represent that the credentialed EMS personnel has a credential that the credentialed EMS personnel does not in fact have;
 - (32) diversion of any medication requiring medical oversight for credentialed EMS personnel; or
 - (33) filing a knowingly false complaint against an individual, EMS Agency, or educational institution.
- (c) Pursuant to the provisions of G.S. 131E-159(h), the OEMS shall not issue an EMS credential for any person listed on the North Carolina Department of Public Safety, Sex Offender and Public Protection Registry, or who was convicted of an offense that would have required registration if committed at a time when the registration would have been required by law.
- (d) Pursuant to the provisions of G.S. 50-13.12, upon notification by the court, the OEMS shall revoke an individual's EMS credential until the Department has been notified by the court that evidence has been obtained of compliance with a child support order. The provisions of G.S. 50-13.12 supersede the requirements of Paragraph (f) of this Rule.
- (e) When a person who is credentialed to practice as an EMS professional is also credentialed in another jurisdiction and the other jurisdiction takes disciplinary action against the person, the Department shall summarily impose the same or lesser disciplinary action upon receipt of the other jurisdiction's action. The EMS professional may request a hearing before the EMS Disciplinary Committee. At the hearing the issues shall be limited to:
- (1) whether the person against whom action was taken by the other jurisdiction and the Department are the same person;
 - (2) whether the conduct found by the other jurisdiction also violates the rules of the N.C. Medical Care Commission; and
 - (3) whether the sanction imposed by the other jurisdiction is lawful under North Carolina law.
- (f) The OEMS shall provide written notification of the amendment, denial, suspension, or revocation. This notice shall be given personally or by certified mail, and shall set forth:
- (1) the factual allegations;
 - (2) the statutes or rules alleged to have been violated; and

- (3) notice of the individual's right to a contested hearing, set forth in Rule .1509 of this Section, on the revocation of the credential.

(g) The OEMS shall provide written notification to the EMS professional within five business days after information has been entered into the National Practitioner Data Bank and the Healthcare Integrity and Protection Integrity Data Bank.

(h) The EMS System Administrator, Primary Agency Contact, Medical Director, Educational Institution Program Coordinator, or Medical Advisor shall notify the OEMS of any violation listed in Paragraph (b) of this Rule.

History Note: Authority G.S. 131E-159; 143-508(d)(10); 143-519;

Eff. January 1, 2013;

Readopted Eff. January 1, 2017;

Amended Eff. July 1, 2021.

10A NCAC 13P .1511 PROCEDURES FOR QUALIFYING FOR AN EMS CREDENTIAL FOLLOWING ENFORCEMENT ACTION

(a) Any individual who has been subject to suspension, revocation, or amendment of an EMS credential shall submit in writing to the OEMS a request for review to determine eligibility for credentialing.

(b) Factors the Department shall consider when determining eligibility shall include:

- (1) the reason for administrative action, including:
 - (A) criminal history;
 - (B) patient care;
 - (C) substance abuse; and
 - (D) failure to meet credentialing requirements;
- (2) the length of time since the administrative action was taken; and
- (3) any mitigating or aggravating factors relevant to obtaining a valid EMS credential.

(c) In order to be considered for eligibility, the individual shall:

- (1) wait a minimum of 36 months following administrative action before seeking review; and
- (2) undergo a criminal history background check. If the individual has been charged or convicted of a misdemeanor or felony in this or any other state or country within the previous 36 months, the 36 month waiting period shall begin from the date of the latest charge or conviction.

(d) If determined to be eligible, the Department shall grant authorization for the individual to begin the process for EMS credentialing as set forth in Rule .0502 of this Subchapter.

(e) Prior to enrollment in an EMS educational program, the individual shall disclose the prior administrative action taken against the individual's credential in writing to the EMS Educational Institution.

(f) An individual who has undergone administrative action against his or her EMS credential is not eligible for legal recognition as defined in G.S. 131E-159(d) or issuance of a temporary EMS credential as defined in G.S. 131E-159(e).

(g) For a period of 10 years following restoration of the EMS credential, the individual shall disclose the prior administrative action taken against his or her credential to every EMS System, Medical Director, EMS Provider, and EMS Educational Institution where he or she is affiliated and provide a letter to the OEMS from each verifying disclosure.

(h) If the Department determines the individual is ineligible for EMS credentialing pursuant to this Rule, the Department shall provide in writing the reason(s) for denial and inform him or her of the procedures for contested case hearing as set forth in Rule .1509 of this Section.

History Note: Authority G.S. 131E-159(g); 143-508(d)(3); 143-508(d)(10);

Eff. January 1, 2017;

Amended Eff. July 1, 2021.

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 16 .0110 REPORTING REQUIREMENTS

(a) If any registrant, trainee, certificate holder, employee, subcontractor, or any other person providing private protective services on behalf of a licensee is charged with any criminal offense that would constitute grounds to deny, suspend, or revoke a permit, registration or certificate under this Chapter, the licensee shall report the criminal charge to the Board either in person or by telephone no later than the first business day following knowledge of the charge. The licensee shall provide a copy of the charging document and a written explanation to the Board within five business days.

(b) If any licensee, trainee, registrant, or certificate holder is charged with any criminal offense that would constitute grounds to deny, suspend, or revoke a license, registration, or certificate under this Chapter, the licensee, trainee, registrant, or certificate holder shall self-report the criminal charge to the Board either in person or by telephone no later than the first business day following the charge. The licensee, trainee, registrant, or certificate holder shall provide a copy of the charging document and a written explanation to the Board within five business days.

(c) If a licensee, trainee, registrant, or certificate holder discharges a firearm while engaged in the private protective services business, the licensee shall notify the Board either in person or by telephone no later than the first business day following the incident. The licensee shall also file a written report to the Board within five business days of the incident. In the report, the licensee shall state the name of the individual who discharged the firearm, the type of weapon discharged, the location of the incident, the law enforcement agency investigating the incident, the events leading to the discharge of the firearm, and any bodily injuries occurring from the incident. This Rule shall not apply to a weapon that is discharged during a training course that has been approved by the Board.

History Note: Authority G.S. 74C-5;

Eff. February 1, 1995;

Transferred and Recodified from 12 NCAC 07D .0112 Eff. July 1, 2015;

Readopted Eff. November 1, 2019;

Amended Eff. July 1, 2021.

14B NCAC 16 .0113 INVOLVEMENT IN ADMINISTRATIVE HEARING

All licensees, registrants, trainees, and trainers shall report to the Board any administrative proceeding commenced against him or her that involves any potential revocation or suspension of, or other disciplinary action against, any private protective service license, permit, certification, or registration that he or she holds in another state. The Board must receive written notice of any such administrative proceeding within 30 days of the date the licensee, registrant, or trainer is notified of the administrative proceeding.

History Note: Authority G.S. 74C-5; 74C-12; Eff. October 1, 2013; Transferred and Recodified from 12 NCAC 07D .0115 Eff. July 1, 2015; Readopted Eff. August 1, 2020; Amended Eff. July 1, 2021.

14B NCAC 16 .0201 APPLICATION FOR LICENSE AND TRAINEE PERMITS

(a) Each applicant for a license or trainee permit shall submit an online application on the website provided by the Board. The online application shall be accompanied by:

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;
- (2) one head and shoulders digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (3) upload online a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
- (4) the applicant's non-refundable application fee, along with a four dollar (\$4.00) convenience fee and credit card transaction fee;
- (5) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board; and
- (6) an Equifax credit check run within 30 days of the license application submission date, which will be submitted to the Board's investigator during the application process.

(b) Applications for trainee permits shall be accompanied by a notarized statement on a form provided by the Board and signed by the applicant and his or her prospective supervisor, stating that

the trainee applicant shall at all times work with and under the direct supervision of that supervisor and the form shall be uploaded as part of the online application process.

(c) Private investigator trainees applying for a license shall make available for inspection a log of experience on a form provided by the Board.

(d) Each applicant must upload evidence of high school graduation either by diploma, G.E.D. certificate, or other proof.

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

History Note: Authority G.S. 74C-2; 74C-5; 74C-8; 74C-8.1; 74C-12; Eff. June 1, 1984; Amended Eff. May 1, 2012; July 1, 2011; August 1, 1998; December 1, 1995; July 1, 1987; December 1, 1985; Transferred and Recodified from 12 NCAC 07D .0201 Eff. July 1, 2015; Amended Eff. November 1, 2017; Readopted Eff. March 1, 2020; Emergency Amendment Eff. May 6, 2020; Temporary Amendment Eff. July 24, 2020; Temporary Amendment Expired Eff. May 14, 2021; Amended Eff. July 1, 2021.

14B NCAC 16 .0203 RENEWAL OR RE-ISSUE OF LICENSES AND TRAINEE PERMITS

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

- (1) one head and shoulders digital color photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (2) upload online a statement of the result of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 24 months;
- (3) the applicant's renewal fee, along with a four dollar (\$4.00) convenience fee and credit card transaction fee; and
- (4) for license applicants, proof of liability insurance as set out in G.S. 74C-10(e).

(b) If a licensee has maintained a license at least two years and then allows the license to expire, the license may be re-issued if

application is made within three years of the expiration date and the following documentation is submitted to the Board:

- (1) an online Application For Reinstatement of an Expired License;
- (2) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;
- (3) one head and shoulders digital color photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (4) upload online a statement of the result of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
- (5) the applicant's non-refundable application fee, along with a four dollar (\$4.00) convenience fee and credit card transaction fee;
- (6) proof of liability insurance as set out in G.S. 74C-10(e); and
- (7) payment to the State Bureau of Investigations to cover the cost of criminal record checks performed by the State Bureau of Investigations, with payment to be paid online through the Board's online application process.

(c) A member of the armed forces whose license is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall receive that same extension of time to pay the license renewal fee and complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

History Note: Authority G.S. 74C-5; 74C-8; 74C-8.1; 74C-9; Eff. June 1, 1984;

Amended Eff. October 1, 2013; May 1, 2012; October 1, 2010; November 1, 2007; January 4, 1994; July 1, 1987; December 1, 1985;

Transferred and Recodified from 12 NCAC 07D .0203 Eff. July 1, 2015;

Amended Eff. November 1, 2017;

Readopted Eff. March 1, 2020;

Amended Eff. July 1, 2021.

14B NCAC 16 .0204 DETERMINATION OF EXPERIENCE

(a) Experience requirements shall be determined as follows:

- (1) one year experience = 1,000 hours;
- (2) two years experience = 2,000 hours;
- (3) three years experience = 3,000 hours.

(b) Applicants shall make available upon Board request written documentation to verify experience.

(c) When applying for a license, registration, or trainee permit, the Board shall not consider any experience claimed by the applicant if:

- (1) gained by contracting private protective services to another person, firm, association, or corporation while not in possession of a valid private protective services license or registration; or
- (2) gained when employed by a company contracting private protective services to another person, firm, association, or corporation while the company is not in possession of a valid private protective services license.

(d) The Board may consider formal classroom training that is directly related to the private protective services industry. The Board may grant one half hour of credit for each hour of formal classroom training, but shall grant no more than 200 hours. Paragraph (c) of this Rule is to be considered in addition to any other formal training credits. No credit shall be given for formal training required pursuant to these Rules.

History Note: Authority G.S. 74C-5; 74C-8;

Eff. June 1, 1984;

ARRC Objection October 19, 1988;

Amended Eff. April 1, 1999; February 1, 1996; March 1, 1989; December 1, 1985;

Transferred and Recodified from 12 NCAC 07D .0204 Eff. July 1, 2015;

Readopted Eff. August 1, 2020;

Amended Eff. July 1, 2021.

14B NCAC 16 .0404 REPORTS

(a) In addition to the requirements in G.S. 74C-12(a)(20), private investigators shall make and offer to each client a written report containing the findings and details of the investigation within 30 days after the completion of the investigation for which the client has paid the investigator for the services. The licensee shall retain a copy of the written report.

(b) Descriptive reports, chronological reports, cover letters, and itemized invoices to the client shall be personally signed by a licensee. The file copy shall reflect the names of all participating employees and a description of the work performed by each one. These documents shall be retained by the licensee who signed the report.

History Note: Authority G.S. 74C-5;

Eff. June 1, 1984;

Amended Eff. October 1, 2010; July 1, 1987;

Transferred and Recodified from 12 NCAC 07D .0404 Eff. July 1, 2015;

Readopted Eff. August 1, 2020;

Amended Eff. July 1, 2021.

**14B NCAC 16 .0405 PRIVATE INVESTIGATOR'S
USE OF A BADGE**

While engaged in his or her official duties, a private investigator shall be allowed to carry, possess, and display the badge set forth in this Rule. The badge shall be a duplicate of the badge shown below except for the licensee's name and license number. The badge shall be gold with dark blue lettering. Any deviation from this design shall be deemed an unauthorized badge and may constitute a violation of G.S. 74C-12(a) and this Rule. The badge shall be carried in a folding pocket case with the badge displayed on one side of the case and the private investigator's pocket credential issued by the Board displayed on the opposite side of the case. In no instance may the badge be displayed, even in a case, openly on the breast pocket, the belt, a neck lanyard, or any other open carry or possession.



*History Note: Authority G.S. 74C-5(12);
Eff. May 1, 2010;
Transferred and Recodified from 12 NCAC 07D .0405 Eff. July 1, 2015;
Readopted Eff. August 1, 2020;
Amended Eff. July 1, 2021.*

**14B NCAC 16 .0602 P.S.E. EXAMINATION
REQUIREMENTS**

P.S.E. licensees shall comply with the requirements of Rule .0503 of this Chapter. In addition, P.S.E. examinations shall be conducted by the examiner in the presence of the examinee and with the examinee's knowledge that he or she is being examined. Examination by telephone or any other method that is not in person is prohibited.

*History Note: Authority G.S. 74C-5;
Eff. June 1, 1984;
Transferred and Recodified from 12 NCAC 07D .0602 Eff. July 1, 2015;
Readopted Eff. August 1, 2020;
Amended Eff. July 1, 2021.*

**14B NCAC 16 .0701 APPLICATION FOR UNARMED
SECURITY GUARD REGISTRATION**

(a) Each employer or his or her designee shall submit an online application for the registration of each employee to the Board. This online submission shall be accompanied by:

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of

classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;

- (2) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (3) upload online a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 48 months;
- (4) the applicant's non-refundable registration fee, along with a four dollar (\$4.00) convenience fee and credit card transaction fee;
- (5) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board;
- (6) one original signed SBI release of information form that shall be uploaded online with the original mailed to the Board's administrative office;
- (7) a statement signed by a certified trainer that the applicant has completed the training requirements of Rule .0707 of this Section if applicable; and
- (8) a completed affidavit form and public notice statement form.

(b) The employer of each applicant for registration shall give the applicant a copy of the application and the completed affidavit form and shall retain a copy of the application, including the affidavit, in the guard's personnel file in the employer's office.

(c) The applicant's copy of the application and completed affidavit form shall serve as a temporary registration card that shall be carried by the applicant when he or she is working within the scope of his or her employment and shall be exhibited upon the request of any law enforcement officer or authorized representative of the Board.

(d) A copy of the statement required by Subparagraph (a)(7) of this Rule shall be retained by the licensee in the individual applicant's personnel file in the employer's office.

*History Note: Authority G.S. 74C-5; 74C-8.1; 74C-11;
Eff. June 1, 1984;
Amended Eff. May 1, 2012; July 1, 2011; August 1, 1998;
December 1, 1995; June 1, 1994; February 1, 1990; May 1, 1988;
Transferred and Recodified from 12 NCAC 07D .0701 Eff. July 1, 2015;
Amended Eff. November 1, 2017;
Readopted Eff. March 1, 2020;
Amended Eff. July 1, 2021.*

**14B NCAC 16 .0703 MINIMUM STANDARDS FOR
UNARMED SECURITY GUARD REGISTRATION**

An applicant for registration shall:

- (1) be at least 18 years of age;
- (2) be a citizen of the United States or a resident alien;
- (3) be of good moral character and temperate habits. Any of the following within the last five years shall be prima facie evidence that the applicant does not have good moral character or temperate habits: conviction by any local, state, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage; conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking and/or entering, burglary, or larceny, or a history of addiction to alcohol or a narcotic drug. For the purposes of this Rule, "conviction" means and includes the entry of a plea of guilty, plea of no contest, or a verdict rendered in open court by a judge or jury;
- (4) not have been judicially declared incompetent or not have been involuntarily committed to an institution for treatment of mental illness. When an individual has been treated and found to have been restored, the Board will consider this evidence and determine whether the applicant meets the requirements of this Rule; and
- (5) not have had a revocation of a registration.

*History Note: Authority G.S. 74C-5; 74C-12(a)(19);
Eff. June 1, 1984;
Amended Eff. August 1, 1988; December 1, 1985;
Transferred and Recodified from 12 NCAC 07D .0703 Eff. July 1, 2015;
Readopted Eff. August 1, 2020;
Amended Eff. July 1, 2021.*

**14B NCAC 16 .0707 TRAINING REQUIREMENTS
FOR UNARMED SECURITY GUARDS**

(a) Applicants for an unarmed security guard registration shall complete the basic unarmed security guard training course within 30 days from the date of permanent hire. The course shall consist of a minimum of 16 hours of classroom instruction including:

- (1) The Security Officer in North Carolina -- (minimum of one hour);
- (2) Legal Issues for Security Officers -- (minimum of three hours);
- (3) Emergency Response -- (minimum of three hours);
- (4) Communications -- (minimum of two hours);
- (5) Patrol Procedures -- (minimum of three hours);
- (6) Note Taking and Report Writing -- (minimum of three hours); and

- (7) Department -- (minimum of one hour).

A minimum of four hours of classroom instruction shall be completed within 20 calendar days of any security guard, including probationary, being placed on a duty station. These four hours shall include the instruction on The Security Officer in North Carolina and Legal Issues for Security Officers.

(b) Training shall be conducted by a Board certified unarmed security guard trainer. A Board created lesson plan covering the training requirements in Paragraph (a) of this Rule shall be made available by the Board to each trainer. The Board may approve other media training materials that deliver the training requirements of Paragraph (a) of this Rule.

(c) The 16 hours of training may be delivered remotely under the following conditions:

- (1) The training is presented by a Board certified unarmed security officer trainer.
- (2) Each student is given a copy of the unarmed security guard training manual to use for the duration of the 16 hour training course.
- (3) The technology used allows the trainer to see the students and the students to see the trainer in real time during the training.
- (4) All students in each classroom are able to see and read the screen or monitor, and they must be able to hear and understand the audio presentation. All monitors used in each classroom must be at least 32 inches wide.
- (5) The technology used is of sufficient quality so that the training audio and video is delivered smoothly and without interruption.
- (6) Each student is taught to use the audio and video equipment in the classroom prior to the start of the 16 hour unarmed security officer training course.
- (7) The total number of students receiving the remote training at one time does not exceed 35 students.
- (8) Any additional training beyond the Board mandated training in the unarmed security guard training manual is taught either before or after the 16 hour unarmed security officer training.
- (9) The Director is notified five days prior to training of the location of each classroom, name, and location of the certified trainer, and the number of students who will be present.
- (10) The sponsoring agency allows the Director or the Director's designee access via computer of the training during the time that it is taking place.

*History Note: Authority G.S. 74C-5; 74C-11; 74C-13(m);
Eff. January 1, 1990;
Amended Eff. June 1, 2009; November 1, 2006; June 1, 2004;
Transferred and Recodified from 12 NCAC 07D .0707 Eff. July 1, 2015;
Readopted Eff. August 1, 2020;
Amended Eff. July 1, 2021.*

**14B NCAC 16 .0708 TRAINER NAME TO BE
SUBMITTED TO DIRECTOR**

Licensees shall submit to the Director the name of the certified unarmed security guard trainer who will be conducting the unarmed security guard training.

*History Note: Authority G.S. 74C-5; 74C-13(m);
Eff. July 1, 2021.*

**14B NCAC 16 .0801 APPLICATION/ARMED
SECURITY GUARD FIREARM REGISTRATION
PERMIT**

(a) Each armed security guard employer or his or her designee shall submit an online application for the registration of each armed security guard applicant to the Board. This online submission shall be accompanied by:

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;
- (2) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (3) upload online a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
- (4) the applicant's non-refundable registration fee, along with a four dollar (\$4.00) convenience fee and credit card transaction fee;
- (5) a statement signed by a certified trainer that the applicant has successfully completed the training requirements of Rule .0807 of this Section;
- (6) a certification by the applicant that he or she is at least 21 years of age;
- (7) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board; and
- (8) a completed affidavit form and public notice statement form.

(b) The employer of each applicant for registration shall give the applicant a copy of the online application, the completed affidavit form, and proof of completion of a Board approved firearms course and shall retain a copy of the application, including affidavit and proof of course completion, in the guard's personnel file in the employer's office.

(c) The applicant's copy of the application, affidavit, and proof of completion of a Board approved firearms course shall serve as a

temporary registration card that shall be carried by the applicant when he or she is working within the scope of his or her employment and shall be exhibited upon the request of any law enforcement officer or authorized representative of the Board.

(d) Applications submitted without proof of completion of a Board approved firearms training course shall not serve as temporary registration cards.

(e) The provisions of Paragraphs (a), (b), and (c) of this Rule also apply to any employee whose employment is terminated within 30 days of employment.

History Note: Authority G.S. 74C-5; 74C-9; 74C-13;

Eff. June 1, 1984;

*Amended Eff. May 1, 2012; April 1, 2008; August 1, 1998;
December 1, 1995; February 1, 1990; May 1, 1988; July 1, 1987;
Transferred and Recodified from 12 NCAC 07D .0801 Eff. July 1, 2015;*

Amended Eff. November 1, 2017;

Readopted Eff. March 1, 2020;

Amended Eff. July 1, 2021.

14B NCAC 16 .0808 CONCEALED HANDGUN

(a) The Board does not have the authority to issue a Concealed Carry Permit. However, a licensee trainee, registrant, or firearms trainer who has complied with all provisions of G.S. 14, Article 54B and applicable rules adopted by the N.C. Criminal Justice Education and Training Standards Commission pursuant thereto and has been issued a current concealed handgun permit by a Sheriff may carry a concealed handgun after complying with the concealed handgun provisions for training and qualifications set forth in Paragraph (b) of this Rule.

(b) A licensee, trainee, registrant, or firearms trainer shall comply with each of the following requirements to carry a concealed handgun while engaged in a private protective services business:

- (1) Hold a current Armed Security Guard Registration Permit by complying with all requirements for armed registration as prescribed in this Section.
- (2) Complete standards set forth by the N.C. Criminal Justice Education and Training Standards Commission to include knowledge of North Carolina firearms laws including the limitation on concealed handgun possession on specified property and within certain buildings.

(c) Upon application to the Board, a licensee, trainee, registrant, or firearms trainer meeting the requirements of this Section shall be issued a concealed handgun endorsement to the current Armed Security Guard Registration Permit for the term of the Armed Security Guard Registration Permit without additional permit fees, but any additional training costs necessary to comply with this Section shall be borne directly by the applicant. The endorsement shall be renewed at the time of the Armed Security Guard Registration Permit renewal pursuant to this Rule on payment of the armed security guard registration renewal fee and proof of possession of a current Concealed Handgun Permit. There shall be no additional fee for the concealed handgun endorsement renewal.

History Note: Authority G.S. 74C-5; 74C-13;

Eff. June 1, 1984;
Temporary Amendment Eff. December 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. June 1, 1996;
Transferred and Recodified from 12 NCAC 07D .0808 Eff. July 1, 2015;
Readopted Eff. November 1, 2019;
Amended Eff. July 1, 2021.

14B NCAC 16 .0902 APPLICATION FOR FIREARMS TRAINER CERTIFICATE

Each applicant for a firearms trainer certificate shall submit an online application to the Board. The application shall be accompanied by:

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;
- (2) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online submission and submitted by uploading online with the application submission;
- (3) upload online a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board;
- (5) the applicant's non-refundable application fee, along with a four dollar (\$4.00) convenience fee and credit card transaction fee;
- (6) evidence of the liability insurance required by G.S. 74C-10(e) if the applicant is not an employee of a licensee;
- (7) a certificate of successful completion of the training required by Rule .0901(a)(3) and (4) of this Section, stating the training was completed within 60 days of the submission of the application and uploaded online as part of the online application process; and
- (8) the actual cost charged to the Private Protective Services Board by the North Carolina Justice Academy to cover the cost of the firearms training course given by the N.C. Justice Academy and collected as part of the online application process by the Private Protective Services Board.

History Note: Authority G.S. 74C-5; 74C-8.1(a); 74C-13;
Eff. June 1, 1984;
Amended Eff. August 1, 1998; December 1, 1995; July 1, 1987; December 1, 1985;
Temporary Amendment Eff. July 17, 2001;
Amended Eff. January 1, 2013; May 1, 2012; August 1, 2002;
Transferred and Recodified from 12 NCAC 07D .0902 Eff. July 1, 2015;
Amended Eff. November 1, 2017;
Readopted Eff. March 1, 2020;
Amended Eff. July 1, 2021.

14B NCAC 16 .1203 ACCREDITATION STANDARDS

(a) CE courses may obtain the approval of the Board by submitting the following information to the Board for consideration:

- (1) the nature and purpose of the course;
- (2) the course objectives or goals;
- (3) the outline of the course, including the number of training hours for each segment; and
- (4) the name of the instructor.

(b) To determine if a course will receive approval from the Board, the Board shall complete the following review:

- (1) The matter shall be referred to the Training and Education Committee for the appointment of a sub-committee that shall review the course under consideration. The sub-committee shall consist of at least two industry members of the Training and Education Committee. Other members of the sub-committee may be appointed at the discretion of the Training and Education Committee Chairman.
- (2) The sub-committee shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives or goals.
- (3) When the sub-committee completes its review, it shall report to the Training and Education Committee. The Training and Education Committee shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives and goals. The Training and Education Committee shall then report the findings with a recommendation of acceptance or denial to the Private Protective Services Board.

(c) Upon receipt of the Training and Education Committee report, the Private Protective Services Board shall determine by majority vote if the course will be approved for continuing education credits. In making its determination, the Board shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives or goals.

(d) Each approved course shall remain an approved course for four years from the date of approval by the Board, unless the course content changes or the course instructor changes.

(e) Trainers and instructors shall receive continuing education credit of five hours for every actual teaching hour with an eight hour cap of continuing education credit every two years.

(f) Colleges, universities, trade schools, and other degree granting institutions shall be granted standing approval when the institutions are accredited, certified, or approved by the Department of Public Instruction or by a similar agency in another state and the course is related to law, criminal justice, security profession, finance, ethics, forensics, crime prevention, and investigation. Approval is one credit hour per contact hour not to exceed eight credit hours.

(g) Online courses shall be approved by the Board based on compliance with the standards set forth in Paragraph (a) of this Rule. No more than six hours of CEU credit shall be given during a renewal period for online courses.

(h) No course offering CEU credits may be taken for credit more than one time during a renewal period.

History Note: Authority G.S. 74C-5; 74C-22;

Eff. February 1, 2010;

Amended Eff. October 1, 2011;

Transferred and Recodified from 12 NCAC 07D .1303 Eff. July 1, 2015;

Emergency Amendment Eff. May 6, 2020;

Readopted Eff. July 1, 2020;

Temporary Amendment Eff. July 24, 2020;

Temporary Amendment Expired Eff. May 14, 2021;

Amended Eff. July 1, 2021.

14B NCAC 16 .1301 APPLICATION FOR UNARMED ARMORED CAR SERVICE GUARD REGISTRATION

(a) Each armored car employer or his designee shall complete an online application form for the registration of each unarmed armored car service guard applicant to the Board. This online form shall be accompanied by:

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;
- (2) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
- (3) upload online a statement of the result of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
- (4) the applicant's non-refundable registration fee, along with a four dollar (\$4.00) convenience fee and credit card transaction fee;
- (5) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board;

(6) a statement signed by a certified trainer that the applicant has successfully completed the training requirements of Rule .1307 of this Section, if applicable; and

(7) a completed affidavit form and public notice statement form.

(b) The employer of each applicant for registration shall give the applicant a copy of the online application and completed affidavit and shall retain a copy of the application, including the affidavit, in the guard's personnel file in the employer's office.

(c) The applicant's copy of the application and completed affidavit form shall serve as a temporary registration card that shall be carried by the applicant when he or she is working is within the scope of his or her employment and shall be exhibited upon the request of any law enforcement officer or authorized representative of the Board.

(d) A copy of the statement specified in Subparagraph (a)(6) of this Rule shall be retained by the licensee in the individual applicant's personnel file in the employer's office.

History Note: Authority G.S. 74C-3; 74C-5; 74C-8.1(a);

Eff. January 1, 2013;

Transferred and Recodified from 12 NCAC 07D .1401 Eff. July 1, 2015;

Amended Eff. November 1, 2017;

Readopted Eff. March 1, 2020;

Amended Eff. July 1, 2021.

14B NCAC 16 .1407 TRAINING REQUIREMENTS FOR ARMED ARMORED CAR SERVICE GUARDS

(a) Prior to applying, applicants for an armed armored car service guard firearm registration permit shall complete the basic training course for unarmed armored car service guards set forth in Rule .1307(a) of this Chapter. Private Investigator Licensees applying for an armed armored car service guard firearm registration permit shall complete a four hour training course consisting of blocks of instruction "The Security Officer in North Carolina" and "Legal Issues for Security Officers" as set forth in Rule .1307(a) of this Chapter. Private Investigator Licensees applying for an armed armored car service guard firearm registration permit are not required to complete the following training blocks found in the basic training course referenced in Rule .1307(a) of this Chapter: "Emergency Responses," "Department," "Armored Security Operations," and "Safe Driver Training." A Private Investigator Licensee applying for an armed armored car service guard firearm registration permit shall meet all additional training requirements set forth in Rule .1307(a) of this Chapter as well as the training requirements set forth in this Rule.

(b) Applicants for an armed armored car service guard firearm registration permit shall complete a basic training course for armed security guards that consists of at least 20 hours of classroom instruction including:

- (1) legal limitations on the use of handguns and on the powers and authority of an armed security guard, including familiarity with rules relating to armed security guards -- (minimum of four hours);
- (2) handgun safety, including range firing procedures -- (minimum of one hour);

- (3) handgun operation and maintenance -- (minimum of three hours);
 - (4) handgun fundamentals -- (minimum of eight hours); and
 - (5) night firing -- (minimum of four hours).
- (c) Applicants for an armed armored service guard firearm registration permit shall attain a score of at least 80 percent accuracy on a firearms range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office. Should a student fail to attain a score of 80 percent accuracy, the student shall be given an additional three attempts to qualify on the course of fire he or she did not pass, which additional attempts shall take place within 20 days of the completion of the initial 20 hour course. Failure to meet the qualification after three additional attempts shall require the student to repeat the entire basic training course for armed security guards.
- (d) All armed security guard training required by this Chapter shall be administered by a certified trainer and shall be successfully completed no more than 90 days prior to the date of issuance of the armed armored car service guard firearm registration permit.
- (e) All applicants for an armed armored car service guard firearm registration permit shall obtain training under the provisions of this Rule using their duty weapon and their duty ammunition or ballistic equivalent ammunition, to include lead-free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all weapons.
- (f) No more than six new or renewal armed armored car service guard applicants per one instructor shall be placed on the firing line at any one time during firearms range training.
- (g) Applicants for re-certification of an armed armored car service guard firearm registration permit shall complete a basic recertification training course for armed armored car guards that consists of at least four hours of classroom instruction and is a review of the requirements set forth in Subparagraphs (b)(1) through (b)(5) of this Rule. The recertification course is valid for 180 days after completion of the course. Applicants for recertification of an armed armored car service guard firearm registration permit shall also complete the requirements of Paragraph (c) of this Rule.
- (h) To be authorized to carry a standard 12 gauge shotgun in the performance of his or her duties as an armed armored car service guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (b) and (c) of this Rule, five hours of classroom training that shall include the following:
- (1) legal limitations on the use of shotguns (minimum of one hour);
 - (2) shotgun safety, including range firing procedures (minimum of one hour);
 - (3) shotgun operation and maintenance (minimum of one hour);
 - (4) shotgun fundamentals (minimum of one hour); and
 - (5) night firing (minimum of one hour.)

An applicant may take the additional shotgun training at a time after the initial training in Subparagraph (b) of this Rule. If the shotgun training is completed at a later time, the shotgun

certification shall run concurrently with the armed registration permit.

(i) In addition to the requirements set forth in Paragraph (h) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a shotgun range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(j) Applicants for shotgun recertification shall complete an additional one hour of classroom training as set forth in Subparagraphs (h)(1) through (h)(5) of this Rule and shall also complete the requirements of Paragraph (i) of this Rule.

(k) Applicants for an armed armored car service guard firearm registration permit who possess a current firearms trainer certificate shall be given, upon their written request, a firearms registration permit that will run concurrently with the trainer certificate upon completion of an annual qualification with their duty weapons as set forth in Paragraph (c) of this Rule.

(l) An armed armored car service guard shall qualify annually for both day and night firing with his or her duty weapon and shotgun, if applicable. If the armed armored car service guard fails to qualify on either course of fire, the guard cannot carry a firearm until such time as he or she meets the qualification requirements. Upon failure to qualify, the firearm instructor shall notify the armed armored car service guard that he or she is no longer authorized to carry a firearm, and the firearm instructor shall notify the employer and the Board on the next business day.

(m) Armed armored car service guard personnel may also work as armed security guards only if they hold an unarmed or armed security guard registration.

History Note: Authority G.S. 74C-3; 74C-5; 74C-13; Eff. January 1, 2013; Transferred and Recodified from 12 NCAC 07D .1507 Eff. July 1, 2015; Amended Eff. October 1, 2015; Readopted Eff. July 1, 2020; Amended Eff. July 1, 2021.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 02B .0227 WATER QUALITY MANAGEMENT PLANS

(a) In implementing the water quality standards to protect the "existing uses" [as defined by Rule .0202 of this Section] of the waters of the State or the water quality that supports those uses, the Commission shall develop water quality management plans on a priority basis to attain, maintain or enhance water quality throughout the State. Additional specific actions deemed necessary by the Commission to protect the water quality or the existing uses of the waters of the State shall be specified in Paragraph (b) of this Rule. These actions may include anything within the powers of the Commission, as set forth in G.S. 143, Article 21 and G.S. 143B-282. The Commission may also consider local actions that have been taken to protect a waterbody in determining the appropriate protection options to be incorporated into the water quality management plan.

(b) All waters determined by the Commission to be protected by a water quality management plan are listed with specific actions either in Rules .0601 - .0608 of this Subchapter that address the Goose Creek watershed (Yadkin Pee-Dee River Basin) or as follows:

- (1) The Lockwoods Folly River Area (Lumber River Basin), which includes all waters of the lower Lockwoods Folly River in an area extending north from the Intracoastal Waterway to a line extending from Genoes Point to Mullet Creek, shall be protected by the specific actions described in Parts (A) through (D) of this Subparagraph.
 - (A) New development activities within 575' of the mean high water line that require a Sedimentation Erosion Control Plan or a CAMA major development permit shall comply with the low density option of the coastal stormwater requirements as specified in 15A NCAC 02H .1005(3)(a).
 - (B) New or expanded NPDES permits shall be issued only for non-domestic, non-industrial process type discharges, such as non-industrial process cooling or seafood processing discharges. Pursuant to 15A NCAC 02H .0111, a public hearing shall be mandatory for any proposed (new or expanded) NPDES permit to this protected area.
 - (C) New or expanded marinas shall be located in upland basin areas.
 - (D) No dredge or fill activities shall be allowed if those activities would result in a reduction of the beds of "submerged aquatic vegetation habitat" or "shellfish producing habitat" that are defined in 15A NCAC 03I .0101, except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the protected area or maintenance dredging for activities such as agriculture.
- (2) A part of the Cape Fear River (Cape Fear River Basin) comprised of a section of Index No.18-(71) from upstream mouth of Toomers Creek to a line across the river between Lilliput Creek and Snows Cut shall be protected by the Class SC standards as well as the following site-specific action: All new individual NPDES wastewater discharges and expansions of existing individual NPDES wastewater discharges shall be required to provide treatment for oxygen consuming wastes as described in Parts (A) and (B) of this Subparagraph.

- (A) Effluent limitations shall be as follows: BOD₅ = 5 mg/l, NH₃-N = 1 mg/l and DO = 6 mg/l, or utilize site-specific best available technology on a case-by-case basis for industrial discharges in accordance with Rule .0406 (e) of this Subchapter.
- (B) Seasonal effluent limits for oxygen consuming wastes shall be considered in accordance with Rule .0404 of this Subchapter.

*History Note: Authority G.S. 143-214.1; 143-215.8A;
 Eff. October 1, 1995;
 Amended Eff. June 30, 2017; January 1, 1996;
 Readopted Eff. November 1, 2019;
 Amended Eff. July 1, 2021.*

15A NCAC 02B .0311 CAPE FEAR RIVER BASIN

(a) Classifications assigned to the waters within the Cape Fear River Basin are set forth in the Cape Fear River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Winston-Salem Regional Office
450 West Hanes Mill Road
Winston-Salem, North Carolina;
 - (B) Fayetteville Regional Office
225 Green Street
Systel Building Suite 714
Fayetteville, North Carolina;
 - (C) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina;
 - (D) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina;
 - (E) Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina; and
 - (F) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) The Cape Fear River Basin Classification Schedule was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) December 14, 1980;
- (4) August 9, 1981;
- (5) April 1, 1982;
- (6) December 1, 1983;
- (7) January 1, 1985;
- (8) August 1, 1985;

- (9) December 1, 1985;
 - (10) February 1, 1986;
 - (11) July 1, 1987;
 - (12) October 1, 1987;
 - (13) March 1, 1988;
 - (14) August 1, 1990.
- (c) The Cape Fear River Basin Classification Schedule was amended effective June 1, 1988 as follows:
- (1) Cane Creek [Index No. 16-21-(1)] from source to a point 0.5 mile north of N.C. Hwy. 54 (Cane Reservoir Dam) including the Cane Creek Reservoir and all tributaries has been reclassified from Class WS-III to WS-I.
 - (2) Morgan Creek [Index No. 16-41-1-(1)] to the University Lake dam including University Lake and all tributaries has been reclassified from Class WS-III to WS-I.
- (d) The Cape Fear River Basin Classification Schedule was amended effective July 1, 1988 by the reclassification of Crane Creek (Crains Creek) [Index No. 18-23-16-(1)] from source to mouth of Beaver Creek including all tributaries from C to WS-III.
- (e) The Cape Fear River Basin Classification Schedule was amended effective January 1, 1990 as follows:
- (1) Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area, Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified from Class SA to Class SA ORW.
 - (2) Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands and the Intracoastal Waterway located between a line running from the western most shore of Mason Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New Topsail Inlet to the eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA ORW.
 - (3) Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class SA ORW.
- (f) The Cape Fear River Basin Classification Schedule was amended effective January 1, 1990 as follows: Big Alamance Creek [Index No. 16-19-(1)] from source to Lake Mackintosh Dam including all tributaries has been reclassified from Class WS-III NSW to Class WS-II NSW.

- (g) The Cape Fear River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.
- (h) The Cape Fear River Basin Classification Schedule was amended effective June 1, 1994 as follows:
- (1) The Black River from its source to the Cape Fear River [Index Nos. 18-68-(0.5), 18-68-(3.5) and 18-65-(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
 - (2) The South River from Big Swamp to the Black River [Index Nos. 18-68-12-(0.5) and 18-68-12(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
 - (3) Six Runs Creek from Quewhiffle Swamp to the Black River [Index No. 18-68-2] was reclassified from Class C Sw to Class C Sw ORW.
- (i) The Cape Fear River Basin Classification Schedule was amended effective September 1, 1994 with the reclassification of the Deep River [Index No. 17-(36.5)] from the Town of Gulf-Goldston water supply intake to US highway 421 including associated tributaries from Class C to Classes C, WS-IV and WS-IV CA.
- (j) The Cape Fear River Basin Classification Schedule was amended effective August 1, 1998 with the revision to the primary classification for portions of the Deep River [Index No. 17-(28.5)] from Class WS-IV to Class WS-V, Deep River [Index No. 17-(41.5)] from Class WS-IV to Class C, and the Cape Fear River [Index 18-(10.5)] from Class WS-IV to Class WS-V.
- (k) The Cape Fear River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of Buckhorn Creek (Harris Lake)[Index No. 18-7-(3)] from the backwaters of Harris Lake to the Dam at Harris Lake from Class C to Class WS-V.
- (l) The Cape Fear River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of the Deep River [Index No. 17-(4)] from the dam at Oakdale-Cotton Mills, Inc. to the dam at Randleman Reservoir (located 1.6 mile upstream of U.S. Hwy 220 Business), and including tributaries from Class C and Class B to Class WS-IV and Class WS-IV & B. Streams within the Randleman Reservoir Critical Area have been reclassified to WS-IV CA. The Critical Area for a WS-IV reservoir is defined as 0.5 mile and draining to the normal pool elevation of the reservoir. All waters within the Randleman Reservoir Water Supply Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in Rule .0248 of this Subchapter.
- (m) The Cape Fear River Basin Classification Schedule was amended effective August 1, 2002 as follows:

- (1) Mill Creek [Index Nos. 18-23-11-(1), 18-23-11-(2), 18-23-11-3, 18-23-11-(5)] from its source to the Little River, including all tributaries was reclassified from Class WS-III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.
- (2) McDeed's Creek [Index Nos. 18-23-11-4, 18-23-11-4-1] from its source to Mill Creek, including all tributaries was reclassified from Class WS-III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.

The "@" symbol as used in this Paragraph means that if the governing municipality has deemed that a development is covered under a "5/70 provision" as described in Rule .0215(3)(b)(i)(E) of this Subchapter, then that development is not subject to the stormwater requirements as described in 15A NCAC 02H .1006.

(n) The Cape Fear River Basin Classification Schedule was amended effective November 1, 2004 as follows:

- (1) the portion of Rocky River [Index Number 17-43-(1)] from a point 0.3 mile upstream of Town of Siler City upper reservoir dam to a point 0.3 mile downstream of Lacy Creek from WS-III to WS-III CA.
- (2) the portion of Rocky River [Index Number 17-43-(8)] from dam at lower water supply reservoir for Town of Siler City to a point 65 feet below dam (site of proposed dam) from C to WS-III CA.
- (3) the portion of Mud Lick Creek (Index No. 17-43-6) from a point 0.4 mile upstream of Chatham County SR 1355 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.
- (4) the portion of Lacy Creek (17-43-7) from a point 0.6 mile downstream of Chatham County SR 1362 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.

(o) The Cape Fear River Basin Classification Schedule was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

- (1) Military Ocean Terminal Sunny Point Pools, all on the eastern shore of the Cape Fear River [Index No. 18-(71)] were reclassified to Class WL UWL.
- (2) Salters Lake Bay near Salters Lake [Index No. 18-44-4] was reclassified to Class WL UWL.
- (3) Jones Lake Bay near Jones Lake [Index No. 18-46-7-1] was reclassified to Class WL UWL.
- (4) Weymouth Woods Sandhill Seep near Mill Creek [18-23-11-(1)] was reclassified to Class UWL.
- (5) Fly Trap Savanna near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.

- (6) Lily Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
- (7) Grassy Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
- (8) The Neck Savanna near Sandy Run Swamp [Index No. 18-74-33-2] was reclassified to Class WL UWL.
- (9) Bower's Bog near Mill Creek [Index No. 18-23-11-(1)] was reclassified to Class WL UWL.
- (10) Bushy Lake near Turnbull Creek [Index No. 18-46] was reclassified to Class WL UWL.

(p) The Cape Fear River Basin Classification Schedule was amended effective January 1, 2009 as follows:

- (1) the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from Smithfield Packing Company's intake, located approximately 2 miles upstream of County Road 1316, to a point 0.5 miles upstream of Smithfield Packing Company's intake from Class C to Class WS-IV CA.
- (2) the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from a point 0.5 miles upstream of Smithfield Packing Company's intake to a point 1 mile upstream of Grays Creek from Class C to Class WS-IV.

(q) The Cape Fear River Basin Classification Schedule was amended effective August 11, 2009 with the reclassification of all Class C NSW waters and all Class B NSW waters upstream of the dam at B. Everett Jordan Reservoir from Class C NSW and Class B NSW to Class WS-V NSW and Class WS-V & B NSW, respectively. All waters within the B. Everett Jordan Reservoir Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in Rules .0262 through .0273 of this Subchapter.

(r) The Cape Fear River Basin Classification Schedule was amended effective September 1, 2009 with the reclassification of a portion of the Haw River [Index No. 16-(28.5)] from the Town of Pittsboro water supply intake, which is located approximately 0.15 mile west of U.S. 15/501, to a point 0.5 mile upstream of the Town of Pittsboro water supply intake from Class WS-IV to Class WS-IV CA.

(s) The Cape Fear River Basin Classification Schedule was amended effective March 1, 2012 with the reclassification of the portion of the Haw River [Index No. 16-(1)] from the City of Greensboro's intake, located approximately 650 feet upstream of Guilford County 2712, to a point 0.5 miles upstream of the intake from Class WS-V NSW to Class WS-IV CA NSW, and the portion of the Haw River [Index No. 16-(1)] from a point 0.5 miles upstream of the intake to a point 0.6 miles downstream of U.S. Route 29 from Class WS-V NSW to Class WS-IV NSW.

(t) The Cape Fear River Basin Classification Schedule was amended effective September 1, 2019 with the reclassification of a portion of Sandy Creek [Index No. 17-16-(1)] (including tributaries) from a point 0.4 mile upstream of SR-2481 to a point 0.6 mile upstream of N.C. Hwy 22 from WS-III to WS-III CA. The reclassification resulted in an updated representation of the water supply watershed for the Sandy Creek reservoir.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
Eff. February 1, 1976;
Amended Eff. June 30, 2017; March 1, 2012; September 1, 2009; August 11, 2009; January 1, 2009; November 1, 2007; November 1, 2004; August 1, 2002; April 1, 1999; August 1, 1998; September 1, 1994; June 1, 1994; August 3, 1992; August 1, 1990;
Readopted Eff. November 1, 2019;
Amended Eff. July 1, 2021.

15A NCAC 02D .1701 DEFINITIONS

The definitions in 40 CFR 60.41f apply to this Section.

History Note: Authority G.S. 143-215.3(a)(1);
Eff. July 1, 1998;
Readopted Eff. October 1, 2020;
Amended Eff. July 1, 2021.

15A NCAC 02D .1702 APPLICABILITY

- (a) This Section applies to each existing Municipal Solid Waste (MSW) landfill that accepted waste since November 8, 1987 and that commenced construction, reconstruction, or modification on or before July 17, 2014.
- (b) Physical or operational changes made to an existing MSW landfill solely to comply with an emission standard under this Section are not considered a modification or reconstruction, and do not subject an existing MSW landfill to the requirements of 40 CFR 60, Subpart XXX or 15A NCAC 02D .0524.
- (c) An MSW landfill shall follow the permitting and reporting requirements of 40 CFR 60.31f(c) through (e).

History Note: Authority 143-215.3(a)(1); 143-215.107(a)(5); 143-215.107(a)(10);
Eff. July 1, 1998;
Readopted Eff. October 1, 2020;
Amended Eff. July 1, 2021.

15A NCAC 02D .1703 EMISSION STANDARDS

(a) Any MSW landfill subject to this Section and having a design capacity greater than or equal to 2.5 million megagrams by mass and 2.5 million cubic meters by volume shall be required to collect and control MSW landfill emissions if the following conditions apply:

- (1) The landfill has accepted waste at any time since November 8, 1987 or has additional design capacity available for future waste deposition.
- (2) The landfill commenced construction, reconstruction, or modification on or before July 17, 2014.
- (3) The landfill has an NMOC emission rate greater than or equal to 34 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.
- (4) The landfill is in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year or Tier 4 surface emissions monitoring shows a surface

emission concentration of 500 parts per million methane or greater.

(b) Each owner or operator of a MSW landfill meeting the conditions of Paragraph (a) of this Rule shall install and start-up a collection and control system that captures the gas within the landfill within 30 months after:

- (1) the first annual report in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in 40 CFR 60.38f(d)(4);
- (2) the first annual NMOC emission rate report for a landfill in the closed landfill subcategory in which the NMOC emission rate equals or exceeds 50 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 50 megagrams per year, as specified in 40 CFR 60.38f(d)(4); or
- (3) the most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2, if the Tier 4 surface emissions monitoring shows a surface methane emission concentration of 500 parts per million methane or greater as specified in 40 CFR 60.38f(d)(4)(iii).

(c) Each owner or operator of a MSW landfill meeting the conditions of Paragraph (a) of this Rule shall collect and control the gas from the landfill through the use of control devices where the following applies, except as provided in 40 CFR 60.24:

- (1) a non-enclosed flare designed and operated in accordance with the parameters established in 40 CFR 60.18 except as noted in 40 CFR 60.37f(d);
- (2) a control system designed and operated to reduce NMOC by 98 weight percent; or when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at three percent oxygen or less. The reduction efficiency or concentration in parts per million by volume shall be established by an initial performance test to be completed no later than 180 days after the initial startup of the approved control system using the test methods specified in 40 CFR 60.35f(d). The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burn landfill gas for compliance with this Rule.
- (A) If a boiler or process heater is used as the control device, the landfill gas stream shall be introduced into the flame zone.

(B) The control device shall be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored shall be those specified in 40 CFR 60.37f.

(C) For the closed landfill subcategory, the initial or most recent performance test conducted by the facility to comply with 40 CFR Part 60, Subpart WWW; 40 CFR Part 62, Subpart GGG; or 40 CFR Part 60, Subpart Cc on or before July 17, 2014; shall be used for compliance with 40 CFR Part, Subpart Cf; or

(3) route the collected gas to a treatment system that processes the collected gas for subsequent sale or beneficial use such as fuel for combustion, production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Venting of treated landfill gas to the ambient air is not allowed. If the treated landfill gas cannot be routed for subsequent sale or beneficial use, then the treated landfill gas shall be controlled pursuant to either Subparagraph (c)(1) or (2) of this Rule. All emissions from any atmospheric vent from the gas treatment system are subject to the requirements of Paragraph (b) or (c) of this Rule. For purposes of this Subparagraph, atmospheric vents located on the condensate storage tank are not part of the treatment system and are exempt from the requirements of Paragraph (b) or (c) of this Rule.

(d) Each owner or operator of a MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall submit to the Division a design capacity report as defined in 40 CFR 60.38f(a). Submittal of the initial design capacity report fulfills the requirements of this Rule, except as provided in Subparagraphs (d)(1) and (2) of this Rule, as follows:

- (1) The owner or operator shall submit an amended design capacity report as provided in 40 CFR 60.38f(b). If the design capacity increase is the result of a modification, as defined in 15A NCAC 02D .1701, that was commenced after July 17, 2014, then the landfill becomes subject to 40 CFR Part 60 Subpart XXX instead of 40 CFR Part 60 Subpart Cf. If the design capacity increase is the result of a change in operating practices, density, or some other change that is not a modification as defined in 40 CFR 60.41f, then the landfill remains subject to Subpart Cf.
- (2) When an increase in the maximum design capacity of a landfill with an initial design capacity less than 2.5 million megagrams or 2.5 million cubic meters results in a revised maximum design capacity equal to or greater

than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator shall comply with Paragraph (e) of this Rule.

(e) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters shall either install a collection and control system as provided in Paragraphs (b) and (c) of this Rule or calculate an initial NMOC emission rate for the landfill using the procedures specified in 40 CFR 60.35f(a). The NMOC emission rate shall be recalculated annually, except as provided in 40 CFR 60.38f(c)(3), as follows:

(1) If the calculated NMOC emission rate is less than 34 megagrams per year, the owner or operator shall submit an annual NMOC emission rate report according to 40 CFR 60.38f(c), and recalculate the NMOC emission rate annually using the procedures specified in 40 CFR 60.35f(a) until such time as the calculated NMOC emission rate is equal to or greater than 34 megagrams per year, or the landfill is closed. This annual NMOC emission rate reporting requirement shall not apply to the facilities that elected to submit their reports as provided in 40 CFR 60.38f(c)(3):

(A) if the calculated NMOC emission rate is equal to or greater than 34 megagrams per year, the owner or operator shall either: comply with Paragraphs (b) and (c) of this Rule; calculate NMOC emissions using the next higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 CFR 60.35f(a)(6);

(B) if the landfill is permanently closed, a closure report shall be submitted to the Division as provided in 40 CFR 60.38f(f), except for exemption allowed pursuant to 40 CFR 60.31f(e)(4); and

(C) for the closed landfill subcategory, if the most recently calculated NMOC emission rate is equal to or greater than 50 megagrams per year, the owner or operator shall either: submit a gas collection and control system design plan as specified in 40 CFR 60.38f(d), except for exemptions allowed pursuant to 40 CFR 60.31f(e)(3), and install a collection and control system as provided in Paragraphs (b) and (c) of this Rule; calculate NMOC emissions using the next higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 CFR 60.35f(a)(6).

(2) If the calculated NMOC emission rate is equal to or greater than 34 megagrams per year using

Tier 1, 2, or 3 procedures, the owner or operator shall either: submit a collection and control system design plan prepared by a professional engineer to the Division within one year as specified in 40 CFR 60.38f(d), except for exemptions allowed in 40 CFR 60.31f(e)(3); calculate NMOC emissions using a higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 CFR 60.35f(a)(6). Submitted design plans shall be reviewed by the Division pursuant to the procedures in 40 CFR 60.38f(d)(5) and (6).

- (3) For the closed landfill subcategory, if the calculated NMOC emission rate is equal to or greater than 50 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator shall either: submit a collection and control system design plan as specified in 40 CFR 60.38f(d), except for exemptions allowed pursuant to 40 CFR 60.31f(e)(3); calculate NMOC emissions using a higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 CFR 60.35f(a)(6). Submitted design plans shall be reviewed by the Division pursuant to the procedures in 40 CFR 60.38f(d)(5) and (6).

(f) The collection and control system may be capped, removed, or decommissioned if the following criteria are met:

- (1) The landfill is a closed landfill as defined in 40 CFR 60.41f. A closure report shall be submitted to the Division as provided in 15A NCAC 02D .1708(f).
- (2) The collection and control system has been in operation a minimum of 15 years or the landfill owner or operator demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flow.
- (3) Following the procedures specified in 40 CFR 60.35f(b), the calculated NMOC emission rate at the landfill is less than 34 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart, and no more than 180 days apart.
- (4) For the closed landfill subcategory as defined in 40 CFR 60.41f, following the procedures specified in 40 CFR 60.35f(b), the calculated NMOC emission rate at the landfill is less than 50 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart, and no more than 180 days apart.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.107(a)(10); Eff. July 1, 1998; Amended Eff. July 1, 2000; Readopted Eff. October 1, 2020; Amended Eff. July 1, 2021.

15A NCAC 02D .1704 TEST METHODS AND PROCEDURES

The MSW landfill NMOC emission rate shall be calculated, or a surface emission monitoring demonstration be conducted, by following the procedures in 40 CFR 60.35f, as applicable, to determine whether the landfill meets the conditions of 15A NCAC 02D .1703(a)(3) or (4). The owner or operator shall submit reports following the procedures pursuant to 60.38f(j).

History Note: Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10); Eff. July 1, 1998; Readopted Eff. October 1, 2020; Amended Eff. July 1, 2021.

15A NCAC 02D .1705 OPERATIONAL STANDARDS

The owner and operator of a MSW landfill required to install a landfill gas collection and control system to comply with 15A NCAC 02D .1703(b) and (c) shall:

- (1) operate the collection system such that gas is collected from each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for:
 - (a) five years or more if active; or
 - (b) two years or more if closed or at final grade;
- (2) operate the collection system with negative pressure at each wellhead except under the following conditions:
 - (a) for a fire or increased well temperature, the owner or operator shall record instances when positive pressure occurs in efforts to avoid a fire. These records shall be submitted with the annual reports as provided in 40 CFR 60.38f(h)(1);
 - (b) for the use of a geomembrane or synthetic cover, the owner or operator shall develop acceptable pressure limits in the design plan; and
 - (c) for a decommissioned well, a well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes shall be approved by the Division as specified in 40 CFR 60.38f(d);
- (3) operate each interior wellhead in the collection system with a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit). The owner or operator may establish a higher operating temperature value at a particular well. A higher operating value demonstration shall be submitted to the Division for approval and shall include supporting data demonstrating that the elevated parameter neither causes fires nor inhibits anaerobic decomposition by killing methanogens;

- (4) operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner and operator shall conduct surface testing using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in 40 CFR 60.36f(d). The owner or operator shall conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at no more than 30-meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. The owner or operator shall monitor any openings that are within an area of the landfill where waste has been placed and a gas collection system is required. The owner or operator may establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan shall be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30-meter intervals. Areas with steep slopes or other dangerous areas may be excluded upon request of the owner or operator from the surface testing;
- (5) operate the collection system such that all collected gases are vented to a control system designed and operated in compliance with 40 CFR 60.33f(c). In the event that the gas collection and control system is not operating, the gas mover system shall be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere shall be closed within one hour of the collection or control system not operating;
- (6) operate the control system at all times when the collected gas is routed to the system; and
- (7) if monitoring demonstrates that the operational requirements in Item (2), (3), or (4) of this Rule are not met, corrective action shall be taken as specified in 40 CFR 60.36f(a)(3) and (a)(5) or (c). If corrective actions are taken as specified in 40 CFR 60.36f, the monitored exceedance shall not be a violation of the operational requirements in this Rule.

The owner or operator may choose to comply with the provisions of 40 CFR 63.1958 in lieu of Items (1) through (7) of this Rule. Once the owner or operator begins to comply with the provisions of 40 CFR 63.1958, the owner or operator shall continue to operate the collection and control device according to those provisions and shall not return to the provisions of this Rule.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.107(a)(10); Eff. July 1, 1998;

*Readopted Eff. October 1, 2020;
Amended Eff. July 1, 2021.*

15A NCAC 02D .1706 COMPLIANCE PROVISIONS

- (a) Compliance with 15A NCAC 02D .1703(b) shall be determined using the gas collection system compliance provisions of 40 CFR 60.36f(a).
- (b) Compliance with 15A NCAC 02D .1705(1) shall be determined using the controlled landfill gas well and design component provisions of 40 CFR 60.36f(b).
- (c) Compliance with the surface methane operational standards of 15A NCAC 02D .1705(4) shall be determined using the procedures of 40 CFR 60.36f(c).
- (d) To comply with the provisions in Paragraph (c) of this Rule or 40 CFR 60.35f(a)(6), the owner or operator shall comply with the instrumentation specifications and procedures for surface emission monitoring devices provisions of 40 CFR 60.36f(d).
- (e) The provisions of this Rule apply, except during periods of start-up, shutdown, or malfunction. During periods of startup, shutdown, and malfunction, the owner or operator shall comply with the work practice specified in 40 CFR 60.34f(e) in lieu of the compliance provisions in 40 CFR 60.36f.
- (f) The owner or operator may choose to comply with the provisions of 40 CFR 63.1960 in lieu of Paragraphs (a) through (e) of this Rule. Once the owner or operator begins to comply with the provisions of 40 CFR 63.1960, the owner or operator shall continue to operate the collection and control device according to those provisions and shall not return to the provisions of this Rule.
- (g) Compliance with the specifications for active collection systems in 15A NCAC 02D .1703(b) shall be determined using the provisions of 40 CFR 60.40f(a) and (b).
- (h) Compliance with the specifications for active collection systems in 15A NCAC 02D .1703(c) shall be determined using the provisions of 40 CFR 60.40f(c).

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10); Eff. July 1, 1998;
Readopted Eff. October 1, 2020;
Amended Eff. July 1, 2021.*

15A NCAC 02D .1707 MONITORING PROVISIONS

- (a) The owner or operator of a MSW landfill who is required to comply with 15A NCAC 02D .1703(b) for an active gas collection system shall perform the monitoring requirements as outlined in 40 CFR 60.37f(a).
- (b) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(c) using an enclosed combustor shall perform the monitoring requirements as outlined in 40 CFR 60.37f(b).
- (c) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(c) using a non-enclosed flare shall perform the monitoring requirements as outlined in 40 CFR 60.37f(c).
- (d) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(c) using a device other than a non-enclosed flare, an enclosed combustor, or

treatment system shall comply with the provisions of 40 CFR 60.37f(d).

(e) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(b) by installing a collection system that does not meet the specifications of 40 CFR 60.40f, or seeking to monitor alternative parameters to those required by 15A NCAC 02D .1704 through .1707 shall comply with the provisions of 40 CFR 60.37f(e).

(f) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1705(4) for demonstrating compliance with the 500 parts per million surface methane operational standard shall do so in accordance with 40 CFR 60.37(f).

(g) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(c) shall do so in accordance with the provisions of 40 CFR 60.37(g).

(h) The monitoring requirements of Paragraphs (b), (c), (d), and (g) of this Rule apply at all times the affected source is operating, except for periods of monitoring system malfunctions, repairs associated with the monitoring system malfunctions, and required monitoring system quality assurance or quality control activities. A "monitoring system malfunction" is defined in 60.37f(h). Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. Monitoring system repairs to return the monitoring system to operation in response to malfunctions shall be completed in accordance with 60.37f(h).

(i) The owner or operator may choose to comply with the provisions of 40 CFR 63.19561 in lieu of Paragraphs (a) through (h) of this Rule. Once the owner or operator begins to comply with the provisions of 40 CFR 63.1961, the owner or operator shall continue to operate the collection and control device according to those provisions and shall not return to the provisions of this Rule.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10); Eff. July 1, 1998; Readopted Eff. October 1, 2020; Amended Eff. July 1, 2021.

15A NCAC 02D .1708 REPORTING REQUIREMENTS

(a) The owner or operator of an existing MSW landfill subject to this Rule according to 15A NCAC 02D .1702 shall submit a design capacity report to the Director as follows:

- (1) The initial design capacity report shall be submitted no later than 90 days after the effective date of the EPA approval of the State Plan pursuant to Section 111(d) of the Clean Air Act.
- (2) The initial design capacity report shall contain the information given in 40 CFR 60.38f(a)(1) and 40 CFR 60.38f(a)(2).

(b) The owner or operator of an existing MSW landfill subject to this Section shall submit an amended design capacity report providing notification of an increase in the design capacity of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to meet or exceed 2.5 million megagrams and 2.5 million cubic meters. An increase in design capacity may

result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in 15A NCAC 02D .1709(j).

(c) The owner or operator of an existing MSW landfill subject to this Rule shall submit a NMOC emission report to the Director no later than 90 days after the effective date of EPA approval of the State plan pursuant to Section 111(d) of the Clean Air Act and annually thereafter, except as provided for in 40 CFR 60.38f(c). The NMOC emission rate report shall:

- (1) contain an annual or five-year estimate of the NMOC emission rate calculated using the formula and procedures provided in 40 CFR 60.35f(a) or (b), as applicable;
- (2) include all the data, calculations, sample reports, and measurements used to estimate the annual or five-year emissions; and
- (3) if the estimated NMOC emission rate as reported in the annual report is less than 34 megagrams per year in each of the next five consecutive years, the owner or operator may elect to submit an estimate of the NMOC emission rate for the next five-year period in lieu of the annual report. This estimate shall include the current amount of solid waste-in-place and the estimate waste acceptance rate for each year of the five years for which an NMOC emission rate is estimated. All data and calculations shall be provided. This estimate shall be revised at least once every five years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the five-year estimate, a revised five-year estimate shall be submitted. The revised estimate shall cover the five-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

Each owner and operator subject to the requirements of this Rule shall be exempted from the requirements to submit an NMOC emission rate report, after installing a compliant collection and control system, during such time as the collection and control system is in operation and in compliance with 15A NCAC 02D .1705 and .1706.

(d) The owner or operator of an existing MSW landfill subject to 15A NCAC 02D .1703(b) shall submit a collection and control system design plan to the Director within one year of the first NMOC emission rate report, required under Paragraph (c) of this Rule, in which the emission rate equals or exceeds 34 megagrams per year, except as provided for in 40 CFR 60.38f(d)(4)(i), 60.38f(d)(4)(ii), and 60.38f(d)(4)(iii). The collection and control system design plan shall include:

- (1) a description of the collection and control system;
- (2) a description of any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping, or reporting provisions provided in this Rule; and

- (3) a description indicating how the plan conforms to specifications for active collection systems or a demonstration of sufficient alternative provisions as given in 40 CFR 60.40f.
- (e) The owner or operator of an existing MSW landfill who has already submitted a design plan pursuant to Paragraph
- (d) of this Rule, pursuant to 40 CFR Part 60, Subpart WWW, or a State plan implementing 40 CFR Part 60, Subpart Cc, shall submit a revised design plan that includes the information in Subparagraphs (d)(1) through (d)(3). The revised design plan shall be submitted to the Director as follows:
- (1) at least 90 days before expanding operations to an area not covered by the previously approved design plan; and
 - (2) prior to installing or expanding the gas collection system in a way that is not consistent with the design plan that was submitted to the Director in Paragraph (d) of this Rule.
- (f) The owner or operator of a controlled landfill shall submit a closure report to the Director within 30 days of cessation of waste acceptance. If a closure report has been submitted to the Director, no additional waste shall be placed into the landfill without first filing a notification of modification as described pursuant to 40 CFR 60.7(a)(4). The Director may request such additional information to verify that permanent closure of the MSW landfill has taken place pursuant to the requirements of 40 CFR 258.60.
- (g) The owner or operator of a controlled MSW landfill shall submit an equipment removal report 30 days prior to removal or cessation of operation of the control equipment according to 15A NCAC 02D .1703(f). The report shall contain the items listed in 40 CFR 60.38f(g). The Director may request such additional information to verify that all the conditions for removal in 40 CFR 60.33f(f) have been met.
- (h) The owner or operator of a MSW landfill seeking to comply with 15A NCAC 02D .1703(b) using an active collection system designed in accordance with 40 CFR 60.33f(b) shall submit, following the procedures pursuant to 60.38f(j)(2), annual reports of the recorded information in 40 CFR 60.38f(h)(1) through (h)(7). The initial annual report shall be submitted within 180 days of installation and start-up of the collection and control system, and shall include the initial performance test report required under 40 CFR 60.8. The initial performance test report shall be submitted by following the procedures pursuant to 60.38f(j)(1). Each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706, and .1707 the owner or operator shall follow the semi-annual reporting requirements in 40 CFR 63.1981(h) in lieu of this Paragraph.
- (i) The owner or operator of an existing MSW landfill required to comply with 15A NCAC 02D .1703(b) shall include the information given in 40 CFR 60.38f(i)(1) through (i)(6) with the initial performance test report required pursuant to 40 CFR 60.8.
- (j) The owner or operator of an existing MSW landfill shall submit a report within 60 days after the date of completing each performance test pursuant to 40 CFR 60.38f(j).
- (k) The owner or operator of an existing MSW landfill required to implement corrective active, shall submit reports to the Director pursuant to 40 CFR 60.38f(k)(1) and (k)(2). Each owner or operator that chooses to comply with the operational provisions

of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706, and .1707 shall follow the corrective action and the corresponding timeline reporting requirements in 40 CFR 63.1981(j) in lieu of this Paragraph.

(l) The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters that has employed leachate recirculation or added liquids based on a Research, Development, and Demonstration permit within the last 10 years shall submit an annual report to the Director that includes the information pursuant to 40 CFR 60.38f(l)(1) through (l)(10). The annual report shall be submitted by following the procedures pursuant to 60.38f(j)(2).

(m) The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters that intends to demonstrate site-specific surface methane emissions are below 500 parts per million methane, based on Tier 4 provisions of 40 CFR 60.35f(a)(6), shall provide notifications to the Director in accordance with 40 CFR 60.38f(m)(1) and (m)(2).

(n) Each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706, and .1707, shall submit the 24-hour high temperature report according to 40 CFR 63.1981(k).

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10);

Eff. July 1, 1998;

Amended Eff. July 1, 2000;

Readopted Eff. October 1, 2020;

Amended Eff. July 1, 2021.

15A NCAC 02D .1709 RECORDKEEPING REQUIREMENTS

(a) The owner or operator of a MSW landfill subject to this Section shall keep on-site, readily accessible, for at least five years a copy of the design capacity report that triggered 40 CFR 60.33f(e), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within four hours. Either paper copy or electronic formats of the records shall be acceptable.

(b) The owner or operator of a controlled landfill shall keep up-to-date records for the life of the control equipment of the data listed in 40 CFR 60.39f(b)(1) through (b)(5) as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring shall be maintained for a minimum of five years. Records of the control device vendor specifications shall be maintained until removal.

(c) Each owner or operator of a controlled MSW landfill subject to this Section shall keep for five years up-to-date records pursuant to 40 CFR 60.768(c) of the equipment operating parameters specified to be monitored in 15A NCAC 02D .1707 and records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The parameter boundaries considered in excess of those established during the performance test are defined in 40 CFR 60.39f(c)(1)(i) and (ii) and are also required to be reported pursuant to 15A NCAC 02D .1708(j).

(d) The owner or operator of a MSW landfill subject to this Section shall keep up-to-date, readily accessible continuous records of the indication of flow to the control system and the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configuration used to seal bypass lines as specified in 40 CFR 60.37f.

(e) The owner or operator of a MSW landfill subject to this Section who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with 40 CFR 60.33f(c) shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater.

(f) The owner or operator of a MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(c) by use of a non-enclosed flare shall keep up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent.

(g) The owner or operator of a MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(b) using an active collection system designed pursuant to 40 CFR 60.33f(b) shall keep records of periods of when the collection system or control device is not operating.

(h) The owner or operator of a MSW landfill subject to 15A NCAC 02D .1703(b) shall keep for the life of the collection system an up-to-date plot map pursuant to 40 CFR 60.768(d) showing existing and planned collectors in the system and provide unique identification location labels for each collector. Records of newly installed collectors shall be maintained pursuant to 40 CFR 60.36f(b) and documentation of asbestos-containing or nondegradable waste excluded from collection shall be kept pursuant to 40 CFR 60.40(a)(3)(i) and records of any nonproductive areas excluded from collection shall be kept pursuant to 40 CFR 60.40f(a)(3)(ii).

(i) The owner or operator of a MSW landfill subject to 15A NCAC 02D .1703(b) shall keep for at least five years accessible records of the following:

- (1) for each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706, and .1707, the date upon which the owner or operator started complying with the provisions in 40 CFR 63.1958, 63.1960, and 63.1961, and records according to 40 CFR 63.1983(e)(1) through (e)(5) in lieu of Subparagraphs (2) through (4) of this Paragraph;
- (2) records of emissions from the collection and control system exceeding the operational standards pursuant to 40 CFR 60.34f, including the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance;
- (3) records of each wellhead temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above, each well head nitrogen level at or above 20 percent, and each wellhead oxygen level at or above five percent; and
- (4) records for any root cause analysis as provided in 40 CFR 60.39f(e)(3) through (e)(5).

(j) The owner or operator of a MSW landfill who converts design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, as provided in the definition of "design capacity", shall keep readily accessible, on-site records of the annual recalculation of site specific density, design capacity, and the supporting documentation. Off-site records may be maintained if they are retrievable within four hours. Either paper copy or electronic formats are acceptable.

(k) The owner or operator of a MSW landfill seeking to demonstrate that site-specific surface methane emissions are below 500 parts per million by conducting surface emissions monitoring under the Tier 4 procedures shall follow the recordkeeping provisions provided in 40 CFR 39f(g).

(l) The owner or operator of a MSW landfill subject to the provisions of this Section shall keep for at least five years up-to-date, readily accessible records of all collection and control system monitoring data for the parameters measured in 40 CFR 60.37f(a)(1) through (a)(3).

(m) The owner or operator of a MSW landfill reporting leachate or other liquids addition pursuant to 15A NCAC 02D .1708(k) shall keep records of any engineering calculations or company records used to estimate the quantities or leachate or liquids added, the surface areas for which the leachate or liquids were applied, and the estimates of annual waste acceptance or total waste in place in the areas where leachate or liquids were applied.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4); 143-215.107(a)(5); 143-215.107(a)(10);

Eff. July 1, 1998;

Amended Eff. July 1, 2000;

Readopted Eff. October 1, 2020;

Amended Eff. July 1, 2021.

15A NCAC 02D .1710 COMPLIANCE SCHEDULES

For each existing MSW landfill subject to this Section as specified in 15A NCAC 02D .1702 and meeting the design capacity condition of 15A NCAC 02D .1703(a) whose NMOC emission rate is less than 34 megagrams per year on or after the most recent effective date of this Rule, shall:

- (1) submit a site-specific design plan for the gas collection and control system to the Director within 12 months of first exceeding the NMOC emission rate of 34 megagrams per year and 50 megagrams per year for the closed landfill subcategory; and
- (2) plan, award contracts, and install MSW landfill air emission collection and control system capable of meeting the emission standards established pursuant to 15A NCAC 02D .1703 within 30 months of the date when the conditions in 15A NCAC 02D .1703 (a)(3) are met.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.107(a)(5);

Eff. July 1, 1998;

Readopted Eff. October 1, 2020;

Amended Eff. July 1, 2021.

TITLE 19A - DEPARTMENT OF TRANSPORTATION

19A NCAC 03C .0232 REGISTRATION INFORMATION AND CERTIFIED RECORDS FEES

Any person seeking verification of information regarding license numbers, ownership, or liability insurance shall submit a written request. Copies of these records are provided for a fee as set out in G.S. 20-4.02 and posted on the agency website at <https://www.ncdot.gov/dmv/downloads/Documents/MVR-94.pdf>.

History Note: Authority G.S. 20-1; 20-4.02; 20-39; 20-42; Eff. March 1, 1982;
Amended Eff. November 1, 1991; December 1, 1984;
Readopted Eff. July 1, 2021.

19A NCAC 03F .0201 TRAFFIC ACCIDENT SUMMARY

History Note: Authority G.S. 20-1; 20-3; 20-39; 20-166.1; Eff. July 1, 1978;
Amended Eff. November 1, 1991; February 1, 1982;
Repealed Eff. July 1, 2021.

19A NCAC 03F .0202 FATAL ACCIDENT REPORTS

History Note: Authority G.S. 20-1; 20-3; 20-39; 20-166.1; Eff. July 1, 1978;
Amended Eff. November 1, 1991; February 1, 1982;
Repealed Eff. July 1, 2021.

19A NCAC 03F .0203 SPECIAL HOLIDAY REPORTS

History Note: Authority G.S. 20-1; 20-3; 20-39; 20-166.1; Eff. July 1, 1978;
Amended Eff. November 1, 1991; February 1, 1982;
Repealed Eff. July 1, 2021.

19A NCAC 03I .0307 COURSES OF INSTRUCTION

Commercial driver training schools shall teach the following courses:

- (1) For persons 18 years of age or older, a course as follows:
 - (a) Classroom Instruction. A minimum of six hours, including rules of the road and other laws affecting the operation of motor vehicles, safe driving practices, pedestrian safety, and the general responsibilities of the driver. No class shall consist of more than 50 students. Classroom work shall be limited to no more than six hours per day.
 - (b) Behind-the-Wheel Instruction. A minimum of six hours, including instruction and practice in all the basic

physical skills necessary for proper control of a motor vehicle in all normal driving situations, such as starting, stopping, steering and turning, controlling the vehicle in traffic, backing, and parking. A valid learner's permit issued by the Driver License Section of the Division is required.

- (c) A person holding a valid learner's permit issued by the Driver License Section of the Division shall not be required to take the six hours of classroom instruction set forth in Sub-item (1)(a) of this Rule.
 - (d) A person holding a valid learner's permit or driver's license issued by the Driver License Section of the Division may contract for any portion of the six-hour behind-the-wheel instruction.
- (2) For licensed persons, a course for purposes of driver improvement, such as improving their knowledge and skill in the operation of a motor vehicle.
 - (3) For unlicensed persons under the age of 18 years, courses shall be governed by G.S. 115C-215 and Rule 16 NCAC 06E .0301.
 - (4) For licensed persons taking a course offered by a restricted commercial driver training school, the following courses are authorized:
 - (a) Curriculum for evaluation and improvement for licensed adult drivers only, utilizing over-the-road observation in vehicles not owned by the school or equipment such as driving simulators.
 - (b) Professional curricula, including one or more of the following:
 - (i) police pursuit driving;
 - (ii) auto-cross driving;
 - (iii) emergency-vehicle driving; or
 - (iv) road and track racing.
 - (5) Instructor training program, the requirements for which are:
 - (a) The school must be licensed for one full year prior to approval.
 - (b) All work must be with an instructor licensed as an Instructor Trainer.
 - (c) A proposed plan of operation must be submitted to the Division outlining the training schedule, including:
 - (i) instruction in:
 - (A) using effective teaching methods,
 - (B) writing lesson plans,
 - (C) reviewing of Subchapter 03I

- Rules Governing the Licensing of Commercial Driver Training Schools and Instructors,
- (D) using audio visual equipment and teaching aids,
 - (E) filling out all commercial school forms, and
 - (ii) listing names of instructor trainers to be employed for the training program.

History Note: Authority G.S. 20-321; 20-322; 20-323; 20-324;

Eff. July 2, 1979;

Amended Eff. August 1, 2000; July 1, 1994; December 1, 1993; November 1, 1991; April 1, 1989;

Readopted Eff. July 1, 2021.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 10 – BOARD OF CHIROPRACTIC EXAMINERS

21 NCAC 10 .0103 STRUCTURE OF BOARD

(a) As necessary to meet the requirements of G.S. 90-140, the Board shall hold an election for chiropractic candidates for appointment. Notice of the election shall be published on the Board's website at <https://ncchiroboard.com> at least 30 days in advance of the election.

(b) The election shall be administered by the Board of Chiropractic Examiners. Any member of the Board who is nominated to succeed himself or herself shall be disqualified from conducting the vote in which he or she is a nominee.

(c) Each candidate shall provide two letters of endorsement from chiropractors licensed by the Board. The letters shall be submitted to the Board no less than 21 days before the election.

(d) If less than three candidates are elected, the Board shall provide additional names to the Governor, President Pro Tempore of the Senate, and Speaker of the House in order to comply with G.S. 90-140.

History Note: Authority G.S. 90-139; 90-140; 90-142;

Eff. February 1, 1976;

Readopted Eff. January 27, 1978;

Amended Eff. January 1, 1983; May 8, 1979;

Legislative Objection Lodged Eff. January 31, 1983;

Curative Amended Eff. February 18, 1983;

Amended Eff. June 1, 1994; December 1, 1988;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;

Amended Eff. July 1, 2021; January 1, 2020.

21 NCAC 10 .0203 NORTH CAROLINA EXAMINATION

(a) Eligibility. Only those applicants who meet the requirements of this Rule and G.S. 90-143 or, in the case of reciprocity applicants, G.S. 90-143.1, and who have submitted a written application and paid the non-refundable application fee pursuant to Rule 21 NCAC 10 .0202 shall be allowed to take the North Carolina examination.

(b) Dates of Examination. The North Carolina examination shall be given at least four times during the calendar year and will be scheduled based on the number of applications received. The Board shall announce an examination date not less than 30 days in advance, and the date of upcoming examinations shall be published on the Board's website, www.ncchiroboard.com. The Board shall also individually notify each eligible applicant of the date of the next examination after the applicant's non-refundable application fee has been paid and the written application completed.

(c) National Boards. Except as provided in Paragraph (e) of this Rule, in order to take the North Carolina examination, an applicant who has never been licensed in this State or who is not a reciprocity applicant shall first achieve a score of 375 or higher on Parts I-IV of the examinations given by the National Board of Chiropractic Examiners.

(d) Report of Scores. The applicant shall arrange for his or her test results from any National Board examination to be reported to the North Carolina Board. Failure to comply with this Paragraph shall be a basis for delaying the issuance of a license.

(e) Waiver of National Boards. Notwithstanding the requirements of Paragraph (c) of this Rule, an applicant who submits National Board examinations in conformity with the following schedule shall not be disqualified from licensure in North Carolina:

- (1) An applicant who graduated from chiropractic college before July 1, 1966 shall not be required to submit a score from any National Board examination.
- (2) An applicant who graduated from chiropractic college between July 1, 1966 and June 30, 1986 shall be required to submit scores of 375 or higher on National Board Part I, Part II, and the elective examination termed "Physiotherapy," but shall not be required to submit a score on Part III (WCCE) or Part IV.
- (3) An applicant who graduated from chiropractic college between July 1, 1986 and June 30, 1997 shall be required to submit scores of 375 or higher on National Board Part I, Part II, the elective examination termed "Physiotherapy," and Part III, but shall not be required to submit a score on Part IV.

In order to receive a license, an applicant who qualifies for a waiver of any National Board score shall take and pass the SPEC examination and the North Carolina Examination pursuant to G.S. 90-143.3 and Rule .0202 of this Chapter.

(f) SPEC Examination. In order to take the North Carolina examination, a reciprocity applicant, a waiver applicant pursuant to Paragraph (e) of this Rule, or an applicant previously licensed in this State whose license has been cancelled pursuant to G.S. 90-155 for more than 180 days shall first take and pass the Special

Purpose Examination for Chiropractic ("SPEC"). The SPEC exam is administered by the National Board of Chiropractic Examiners. The passing score shall be 375 or higher.

(g) Nature of Examination. The North Carolina examination shall be a test of an applicant's knowledge of North Carolina chiropractic jurisprudence. The passing grade shall be 75 percent.

History Note: Authority G.S. 90-142; 90-143; 90-143.1; 90-143.3; 90-144; 90-145; 90-146;

Eff/ February 1, 1976;

Readopted Eff. January 27, 1978;

Amended Eff. January 1, 1983; October 17, 1980;

Legislative Objection Lodged Eff. January 31, 1983;

Curative Amendment Eff. February 18, 1983;

Temporary Amendment Eff. May 1, 1998;

Amended Eff. October 1, 2018; April 1, 2018; February 1, 2009;

July 1, 2004; August 1, 2000; August 1, 1995; December 1, 1988;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;

Amended Eff. July 1, 2021.

21 NCAC 10 .0207 CONTINUING EDUCATION SEMINARS

(a) Approval of Seminars. Only continuing education seminars approved by the Board shall count towards satisfying the requirements for license renewal. The sponsor and co-sponsors of any proposed seminar shall be responsible for submitting all the information outlined on the Board's Course Application ("Application") to enable the Board to evaluate the seminar in accordance with this Rule. The Application can be found on and must be submitted pursuant to instructions on the Board's website at <https://ncchiroboard.com>. All applications must reflect that the seminar for which approval is being sought has been previously approved no more than 12 months prior to the date of the seminar by one of the following organizations:

- (1) Any chiropractic college recognized by the Council on Chiropractic Education (CCE);
- (2) Federation of Chiropractic Licensing Boards, PACE program; or
- (3) Any other chiropractic association that can demonstrate an active membership base of at least 200 members.

(b) Applications. In addition to the information set forth in Paragraph (a) of this Rule, all Applications must also contain the following information:

- (1) Whether the course's target audience is doctors of chiropractic, certified chiropractic assistants, or x-ray technicians;
- (2) The course title;
- (3) The beginning and end dates on which the course will be offered;
- (4) Whether the course will be offered online or in a physical location;
- (5) If the course is offered in a physical location, the cities and states in which the course will be offered;
- (6) The manner in which the sponsor or co-sponsor will verify the attendance of licentiates;

- (7) The name and contact information of the sponsor and co-sponsor;
- (8) The website at which information on the course offering will be available;
- (9) The number of continuing education credits that the licentiates can obtain by attending the course; and
- (10) Whether the course will provide doctors of chiropractic, certified chiropractic assistants, or x-ray technicians with continuing education credit toward eligibility for licensure renewal, certification, or recertification.

The Application shall be submitted at least 30 days prior to the date of the proposed seminar. Incomplete applications will not be processed.

(c) Duration of Approval. A seminar approval issued by the Board shall expire at the end of the calendar year for which approved. If the sponsor or co-sponsors of an approved seminar wish to repeat the seminar on a date beyond the approval period, a new application shall be submitted to the Board.

(d) Criteria for Approval. The Board's criteria for approving continuing education seminars is as follows:

- (1) No practice-building or motivational seminars shall be approved;
- (2) No seminar shall be approved that requires attendees, in order to be able to utilize the information presented at the seminar, to purchase equipment or clinical supplies available only through the seminar's instructors, sponsors or co-sponsors;
- (3) Each seminar subject shall fall within the extent and limitation of chiropractic licensure in this State; and
- (4) Each instructor shall submit a curriculum vitae or the equivalent demonstrating that he or she has an educational background in, or professional experience with, the subject or subjects he or she is scheduled to teach.

(e) Duties of Seminar Sponsor. Sponsors and co-sponsors of any approved continuing education seminar shall:

- (1) Disclose on all brochures and advertising materials the name and address of each sponsor and co-sponsor and whether each sponsor and co-sponsor is a for-profit or not-for-profit entity;
- (2) Be liable for all expenses incurred in holding the seminar;
- (3) Give notice to the Board of any material changes in the seminar, including date, location, subject matter or instructors; and
- (4) Provide an agent at the seminar site who shall:
 - (A) Monitor and report the attendance of each person attending the seminar, in accordance with the method identified in the Course Application submitted for the course;
 - (B) Supervise the agenda and prohibit the presentation of any subject matter not approved by the Board; and

- (C) Complete and submit to the Board a post-seminar review summarizing any problems experienced and any variance between the application for approval and the seminar as presented.

(f) Sanction for Non-Compliance. By applying for seminar approval, each sponsor and co-sponsor agrees to admit to the seminar at no charge a representative of the Board for the purpose of observing compliance with this Rule. If the Board determines that a sponsor or co-sponsor has falsified the application for approval, has failed to keep attendance, has allowed the seminar as presented to vary from the agenda as set forth in the application, or has failed to adhere to any other provision of this Rule, the Board shall refuse to approve future seminar applications from the offending sponsor or co-sponsor or from any principal who is a partner or shareholder in the offending sponsor or co-sponsor.

History Note: Authority G.S. 90-142; 90-155; 90-143.2; 90-143.4;

Eff. January 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;

Amended Eff. July 1, 2021; January 1, 2020.

21 NCAC 10 .0216 WAIVER

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

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

History Note: Authority G.S. 90-142; 150B-19(6);

Emergency Adoption Eff. April 28, 2020;

Temporary Adoption Eff. July 24, 2020;

Eff. July 1, 2021.

CHAPTER 12 – LICENSING BOARD FOR GENERAL CONTRACTORS

21 NCAC 12A .0201 DEFINITIONS

The following definitions shall apply to the Rules in this Chapter:

- (1) Completion: As used in G.S. 87-1(b), "completion" occurs upon issuance of a certificate of occupancy by the permitting authority with jurisdiction over the project.
- (2) Cost of the undertaking: As used in G.S. 87-1(a), "cost of the undertaking" means the final price of a project, excluding the cost of land, as

evidenced by the contract and any subsequent amendments, or in the absence of a contract, permit records, invoices, and cancelled checks.

- (3) Misconduct: As used in G.S. 87-11, "misconduct" includes allowing an unlicensed person or entity to use a license or examination credential on an undertaking where a license is required. Misconduct also includes allowing a licensed person or entity to use a license or examination credential on an undertaking for which the user does not hold proper classification or limitation. Misconduct also includes dishonest or fraudulent conduct by a qualifier related to the attendance of a continuing education class described in G.S. 87-10.2.
- (4) Personally: As used in G.S. 87-14(a)(1), "personally" means the physical presence of the owner of the property and excludes the use of a power of attorney.
- (5) Solely for occupancy: As used in G.S. 87-1(b), "solely for occupancy" is restricted to the family of a person, the officers and shareholders of a firm or corporation, and guests and social invitees where no consideration is received. For purposes of G.S. 87-1(b)(2), "family" is defined as a spouse or other family member living in the same household.
- (6) Value: As used in G.S. 87-10(a1), "value" means the same as "cost of the undertaking."

History Note: Authority G.S. G.S. 87-1, 87-10, 87-10.2, and 87-14;

Eff. February 1, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. January 1, 1983;

Repealed Eff. May 1, 1989;

Codifier approved agency's waiver request to reuse rule number; Eff. September 1, 2019;

Recodified from 21 NCAC 12 .0201 Eff. January 2, 2020;

Amended Eff. July 1, 2021.

21 NCAC 12A .0212 PERMITS AND INSPECTIONS

(a) A licensee shall obtain all necessary building permits from the local Code Enforcement Agency before commencing any work for which a building permit is required. After obtaining the necessary building permits, a licensee shall obtain all required inspections and assure that all inspections required by codes adopted by the N.C. Building Code Council are passed by the local Code Enforcement Official or a designee. Absent a written acknowledgement by a local Code Enforcement Official, a licensee shall not be relieved of his, her, or its responsibility to complete all required inspections until a certificate of compliance or the equivalent is obtained from the local Code Enforcement Agency.

(b) A licensee shall not allow a building permit to be obtained or allow his, her, or its license number to appear on a building permit application unless:

- (1) the licensee is the owner of the property; or

- (2) the licensee has an agreement with the property owner or his or her designee to perform work described in the building permit.

(c) Failure to comply with this Rule shall constitute misconduct as described in G.S. 87-11.

History Note: Authority G.S. 87-1; 87-11; 87-14; 160A-417; 160D-1110; Eff. July 1, 2021.

21 NCAC 12A .0503 RENEWAL OF LICENSE

(a) Applications for renewal of license shall contain the following:

- (1) the Social Security Number of the applicant and qualifier(s) and tax identification number for corporations, LLCs, or partnerships;
- (2) the applicant's contact information;
- (3) the name of business under which licensee will be operating, if any;
- (4) information regarding any changes made in the status of the licensee's business, since the initial application or last renewal was submitted to the Board, whichever is later;
- (5) confirmation of license limitation and classifications;
- (6) information about all crimes of which the applicant has been convicted since the initial application or last renewal was submitted to the Board, whichever is later;
- (7) documentation regarding all crimes referenced above;
- (8) information indicating whether the applicant has any disciplinary history with any other occupational licensing, registration, or certification agency since the initial application or last renewal was submitted to the Board, whichever is later;
- (9) an attestation that the applicant maintains continued financial responsibility pursuant to Rule .0204 of this Chapter;
- (10) if applicable, proof that the surety bond is maintained in compliance with Rule .0204 of this Chapter;
- (11) if necessary, proof of completion of continuing education requirements; and
- (12) the application fee and any accrued late fees as set forth in Rule .0304 of this Chapter.

(b) A licensee shall submit an audited financial statement as evidence of continued financial responsibility in accordance with Rule .0204 of this Chapter if the Board finds that the licensee is insolvent, financially unstable, or unable to meet its financial responsibilities based upon the information provided in the renewal application.

(c) A licensee shall provide the Board with a copy of any bankruptcy petition filed by the licensee within 30 days of its filing. A licensee in bankruptcy shall provide to the Board an agreed-upon procedures report on a form provided by the Board or an audited financial statement with a classified balance sheet as part of any application for renewal.

(d) A corporate license shall not be renewed unless it is in good standing with the N.C. Department of the Secretary of State.

(e) Upon receipt of a written request by or on behalf of a licensee who is currently in good standing with the Board, is serving in the armed forces of the United States, and to whom G.S. 105-249.2 grants an extension of time to file a tax return, the Board shall grant that same extension of time for complying with renewal application deadlines, for paying renewal fees, and for meeting any other requirement or conditions related to the maintenance or renewal of the license issued by the Board. The applicant shall furnish to the Board a copy of the military orders or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue.

(f) If a licensee's status is invalid for reasons other than those set forth in G.S. 87-10.2(h) and the licensee requests to renew his, her, or its license, the licensee must submit proof of completion of six elective hours of continuing education for each year not previously renewed and for the current license year and two mandatory hours for the current year.

History Note: Authority G.S. 87-1; 87-4; 87-10; 87-10.2; 87-12; 87-13; 93B-15; Eff. February 1, 1976; Readopted Eff. September 26, 1977; ARRC Objection March 19, 1987; Amended Eff. May 1, 1989; August 1, 1987; Temporary Amendment Eff. June 28, 1989 for a period of 155 Days to Expire on December 1, 1989; Amended Eff. December 1, 1989; RRC Removed Objection of March 19, 1987 Eff. August 20, 1992 based on subsequent amendment; Amended Eff. September 1, 1992; Temporary Amendment Eff. May 31, 1996; Amended Eff. April 1, 2014; June 1, 2011; June 1, 2003; April 1, 2003; August 1, 2002; April 1, 1997; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. September 1, 2019; April 1, 2018; Recodified from 21 NCAC 12 .0503 Eff. January 2, 2020; Temporary Amendment Eff. January 2, 2020; Amended Eff. July 1, 2021; September 1, 2020.

21 NCAC 12A .0607 WAIVER

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

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

History Note: Authority G.S. 87-10.2(j); 150B-19; Emergency Adoption Eff. April 24, 2020; Temporary Adoption Eff. July 24, 2020; Eff. July 1, 2021.

21 NCAC 12B .0204 ATTENDANCE; ROSTER REPORTS AND CERTIFICATES

(a) Qualifiers shall provide proof of identity upon arrival at a class session.

(b) At the conclusion of any continuing education course, the provider shall submit to the Board a CE Roster Report verifying each qualifier's completion of the course. The CE Roster Report shall be submitted to the Board and shall contain the following:

- (1) provider's name;
- (2) provider's ID number assigned by the Board;
- (3) course instructor's name and ID number;
- (4) course's name and ID number;
- (5) course completion date;
- (6) name and qualifier ID number of each student who completed the course; and
- (7) name, qualifier ID number, and reason given for each student who requested but was denied credit by the provider.

(c) Providers shall submit the CE Roster Report electronically to the Board within seven calendar days following the end of any course, but in no case later than December 7.

(d) Providers shall submit the per student fee required by 21 NCAC 12A .0304 with the CE Roster Report.

(e) Providers shall provide a course completion certificate to each student who completes an approved continuing education course. Providers shall provide a printed or electronic certificate to a student within 10 days following the course, but in no case later than December 7, for any course completed prior to that date.

(f) A student shall not be issued a completion certificate and shall not be reported to the Board as having completed a course unless the student satisfies the attendance requirements set forth in this Subchapter.

History Note: Authority G.S. 87-10.2(d) and (e); Temporary Adoption Eff. January 2, 2020; Eff. September 1, 2020; Amended Eff. July 1, 2021.

21 NCAC 12B .0301 COURSE REQUIREMENTS

(a) All continuing education courses shall:

- (1) cover subject matter related to the practice of general contracting and offer knowledge or skills that will enable general contractors to better serve consumers and the public interest;
- (2) offer two or four continuing education credit hours;
- (3) include materials for students that provide the information to be presented in the course; and
- (4) be taught only by an instructor who possesses education or experience in a field related to the course.

(b) Mandatory courses shall cover subject matter as established by the Board, including statutes and rules applicable to general

contracting, changes to the N.C. Building Codes, case studies of Board investigations, and relevant court decisions.

(c) Providers shall submit all elective courses to the Board for approval pursuant to Rule .0302 of this Subchapter.

(d) Elective courses shall be related to the practice of general contracting as set forth in Article 1 of Chapter 87 in the North Carolina General Statutes. Instructional time and materials shall be utilized for instructional purposes only.

(e) All elective courses shall include the following disclaimer within the first three pages or slides of the course materials: THE NORTH CAROLINA LICENSING BOARD FOR GENERAL CONTRACTORS HAS APPROVED THIS COURSE ONLY AS TO ITS RELEVANCE TO THE PRACTICE OF GENERAL CONTRACTING IN NORTH CAROLINA. THE COURSE PROVIDER AND INSTRUCTOR ARE RESPONSIBLE FOR THE ACCURACY OF THE CONTENT AND COMPLIANCE WITH ALL STATE AND FEDERAL LAWS DURING THE ADMINISTRATION OF THE COURSE.

(f) Providers shall obtain approval from the Board before making any changes in the content of a prior approved elective course. Requests for approval of changes shall be made in writing.

History Note: Authority G.S. 87-10.2(b); Temporary Adoption Eff. January 2, 2020; Eff. September 1, 2020; Amended Eff. July 1, 2021.

CHAPTER 28 – LANDSCAPE CONTRACTORS' LICENSING BOARD

21 NCAC 28B .0103 PRACTICE OF LANDSCAPE CONTRACTING; DISPLAY OF LICENSE NUMBER

(a) An individual who is "readily available to exercise supervision over the landscape construction and contracting work" as set forth in G.S. 89D-12(a) and G.S. 89D-17(f) is an individual who is physically located no more than 100 miles from where the construction or contract project is located or who is available electronically with the ability to view the construction or contract project.

(b) The contractor's license number shall be displayed in accordance with G.S. 89D-12(e). License numbers displayed on vehicles used in the contractor's landscaping business shall be a minimum of one inch in height.

(c) In addition to the requirements of G.S. 89D-12(e), license numbers shall be included on all estimates and proposals.

(d) All contracts, estimates, and proposals shall be signed by the contractor or his or her designee.

History Note: Authority G.S. 89D-12(a) and (e); 89D-15(2); Temporary Adoption Eff. January 1, 2016; Eff. September 1, 2016; Amended Eff. July 1, 2021; June 1, 2019.

21 NCAC 28B .0204 MAINTAIN CURRENT INFORMATION

(a) Every licensee shall keep the Board advised of the licensee's current mailing address, phone number, email address, and the

name or names under which the licensee is practicing. If any change occurs, the licensee shall notify the Board in writing of the change within 30 days.

(b) Upon the dissolution of a professional relationship, the member or members thereof shall notify the Board in writing within 30 days concerning such dissolution and of the succeeding business status and addresses of the individuals or firm.

(c) A licensee shall maintain a continuous surety bond coverage or an irrevocable letter of credit while the license is active. Within 5 days after the lapse of a surety bond or revocation of a letter of credit prescribed in G.S. 89D-16(a)(4), a licensee shall notify the Board in writing. If a licensee fails to renew the surety bond or obtain a new letter of credit within 30 days after the lapse or revocation, the license shall be revoked.

(d) Failure to notify the Board of the changes described in this Rule shall constitute a violation of G.S. 89D-22(a)(6).

History Note: Authority G.S. 89D-15(2), 89D-15(11); 89D-16(a)(4); 89D-17(h); 89D-22(a)(8);

Temporary Adoption Eff. January 1, 2016;

Eff. September 1, 2016;

Amended Eff. July 1, 2021.

21 NCAC 28B .0402 CONTINUING EDUCATION UNITS

(a) A licensee shall complete in-person seven continuing education units (CEUs) during the year preceding renewal. At least three of the seven CEUs must be technical credits and at least two of the seven CEUs must be business credits. If the information provided to the Board as required by this Section is unclear, the Board may request additional information from a licensee in order to assure compliance with continuing education requirements.

(b) For the purposes of this Rule:

(1) "technical credits" are defined as credits relating to the subject matter of landscape contracting as described in G.S. 89D-11(3) and Rules .0502 through .0511 in this Subchapter. The rules shall be grouped as follows:

- (A) Group A: topics covered in Rules .0502, .0503, .0510, and .0511 in this Subchapter;
- (B) Group B: topics covered in Rules .0504 and .0506 in this Subchapter;
- (C) Group C: topics covered in Rules .0507 through .0509 in this Subchapter;
- (D) Group D: topics covered in Rule .0505; and

(2) "business credits" are defined as credits relating to general business practices, including business planning, contracts, liability exposure, human resources, basic accounting, financial statements, and safety.

(c) Beginning with renewals filed after August 1, 2022, a licensee shall obtain one technical credit in at least two groups described in Subparagraph (b)(1) of this Rule in each licensing year. A licensee shall obtain at least one technical credit in each of the distinct groups described in Subparagraph (b)(1) of this Rule during a consecutive three-year period.

(d) CEUs shall be determined as follows:

Type of Qualifying Activity	Minimum time required for 1 CEU
Live course	50 minutes
Online course	50 minutes
Trade Shows, Field Days, and Tours	4 hours
Green Industry Board Member Service	5 hours maximum (3 technical and 2 business)
Teaching or instructing	1 hour
In-house or Green Industry training	1 hour
NC Landscape Contractors Licensing Board Service	5 hours maximum (3 technical and 2 business)

(e) No more than two CEU credits shall be given for qualifying teaching or instructing in one year.

(f) Credit shall not be given in increments of less than .5 CEUs. Breaks in courses shall not be counted towards CEU credit.

(g) Requests for pre-approval as set forth in Rule .0405 of this Subchapter shall be submitted at least 45 days prior to the first day of the course or event.

(h) All continuing education shall be taken in-person by the individual receiving credit.

(i) A licensee shall not take the same CEU course within two consecutive licensing years.

(j) A licensee licensed less than 12 months shall not be subject to continuing education requirements for the initial renewal date as set forth in this Rule.

History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b);

Temporary Adoption Eff. January 1, 2016;

Eff. September 1, 2016;

Amended Eff. July 1, 2021; June 1, 2019.

21 NCAC 28B .0403 CONTINUING EDUCATION RECORDS; AUDIT

(a) A licensee shall maintain records of attendance at continuing education programs for which CEUs have been approved for three years following the processing date of the renewal application to which the CEUs were applied.

(b) Compliance with annual CEU requirements shall be determined through a random audit process conducted by the Board. Licensees selected for auditing shall provide the Board with the following documentation of the CEU activities claimed for the renewal period:

- (1) attendance verification records; and
- (2) information regarding course content, instructors, and sponsoring organization.

(c) Licensees selected for audit shall submit all requested information to the Board within 21 calendar days after the date the licensee was notified by the Board of the audit.

(d) Failure to maintain compliance with the Board's continuing education requirements set forth in Rule .0402 of this Section

shall result in the licensee's status being administratively suspended.

History Note Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b);
Temporary Adoption Eff. January 1, 2016;
Eff. September 1, 2016;
Amended Eff. July 1, 2021; June 1, 2019.

21 NCAC 28B .0503 TURF

- (a) When establishing natural turf, the licensed contractor shall:
- (1) Notify the owner or the construction manager whether there is adequate time to establish the specified turf from seed within the construction schedule and prior to finish of the job;
 - (2) Prior to lawn installation, loosen soil to a minimum depth of three inches;
 - (3) Confirm that all lawn seed meets the standards of the NC Seed Law of 1963, as set forth in G.S. 106, Art. 31;
 - (4) Evenly distribute seed;
 - (5) Apply seed at manufacturer's recommended rates;
 - (6) Roll or rake after seeding to ensure good soil contact;
 - (7) Install sod within 36 hours of harvesting unless weather conditions or turf types dictate a shorter timeframe;
 - (8) Lay sod strips in a staggered pattern, horizontal to slopes and with tight seams;
 - (9) Roll sod after installation to provide good soil contact;
 - (10) Distribute sprigs evenly;
 - (11) Ensure that sprigs and sod plugs are in good contact with the soil;
 - (12) Water lawn areas after installation and in accordance with the needs of the lawn; and
 - (13) Notify client of his or her responsibility to water turf following installation.
- (b) When installing artificial turf, the licensed contractor shall:
- (1) Ensure that the sub-grade is compacted and shall pitch properly to drain;
 - (2) Establish a perimeter attachment system to secure the artificial turf;
 - (3) Roll out the turf with the nap facing a consistent direction;
 - (4) Secure the turf with an evenly weighted sand layer distributed over the entire surface; and
 - (5) Follow all manufacturer's specifications for the type of turf being installed.

History Note: Authority G.S. 89D-15(2); 89D-15(16);
Temporary Adoption Eff. January 1, 2016;
Eff. September 1, 2016;
Amended Eff. July 1, 2021.

21 NCAC 28B .0508 WALLS

- (a) When installing retaining walls, the licensed contractor shall:
- (1) Adhere to all pertinent codes;

- (2) Adhere to all NC Department of Insurance requirements regarding the construction of retaining walls which are hereby incorporated by reference and can be found at www.ncosfm.gov/codes free of charge;
 - (3) Adhere to manufacturer's or design professionals specifications;
 - (4) Bury the first course of a retaining wall;
 - (5) Not construct dry-laid stone walls of a height more than 3 feet above grade;
 - (6) Include a subdrain system that is constructed and sized to release the subsurface water behind the wall and not allow hydrostatic pressure to build behind the wall;
 - (7) Construct on a level, well-compacted base of granular material at least 6 inches deep;
 - (8) Place backfill behind retaining walls in lifts no greater than 6 inches before compacted (each lift shall be well-compacted);
 - (9) Prevent excessive runoff from passing over a retaining wall;
 - (10) Construct vertically-set timber walls with above-ground heights equal to or less than the depth of timbers below grade;
 - (11) Install deadmen every fourth course on 8 feet centers when constructing horizontally-set timber retaining walls with staggered joints;
 - (12) Stagger the joints when constructing dry-laid stone walls. If successive vertical joints occur, the licensed contractor shall avoid running vertical joints more than two courses; and
 - (13) Assure that segmental walls meet the manufacturer's specifications.
- (b) When installing retaining walls of dry-laid stone or concrete rubble, the licensed contractor shall:
- (1) Construct the wall no higher than 3 feet above grade; and
 - (2) Stagger the joints when constructing a dry-laid stone wall.
- (c) When installing freestanding walls, the licensed contractor shall:
- (1) Install footings for masonry and cast-in-place concrete freestanding walls of reinforced concrete. The top of the footing shall be at least 1 foot below grade.
 - (2) Reinforce freestanding walls as needed to prevent displacement from wind loads.
 - (3) Ensure that moisture is prevented from entering a cavity wall during construction.
 - (4) Ensure that segmental wall construction meets segmental wall manufacturer's specifications.

History Note: Authority G.S. 89D-15(2); 89D-15(16);
Temporary Adoption Eff. January 1, 2016;
Eff. September 1, 2016;
Amended Eff. July 1, 2021.

CHAPTER 58 - REAL ESTATE COMMISSION

21 NCAC 58A .0105 ADVERTISING

(a) Authority to Advertise.

- (1) A broker shall not advertise any brokerage service or the sale, purchase, exchange, rent, or lease of real estate for another or others without the consent of his or her broker-in-charge and without including in the advertisement the name of the firm or sole proprietorship with which the broker is affiliated.
- (2) A broker shall not display a "for sale" or "for rent" sign on any real estate or otherwise advertise any real estate without the written consent of the owner or the owner's authorized agent.

(b) Blind Ads. A broker shall not advertise the sale, purchase, exchange, rent, or lease of real estate for others in a manner indicating the offer to sell, purchase, exchange, rent, or lease is being made by the broker's principal only. Every such advertisement shall indicate that it is the advertisement of a broker or firm and shall not be confined to publication of only contact information, such as a post office box number, telephone number, street address, internet web address, or e-mail address.

(c) A person licensed as a limited nonresident commercial broker shall comply with the provisions of Rule .1809 of this Subchapter in connection with all advertising concerning or relating to his or her status as a North Carolina broker.

History Note: Authority G.S. 93A-2(a1); 93A-3(c);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2015; April 1, 2013; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2004; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1989; February 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;

Amended Eff. July 1, 2021; July 1, 2018.

21 NCAC 58A .0110 BROKER-IN-CHARGE

(a) Every real estate firm shall designate one BIC for its principal office and one BIC for each of its branch offices. No office of a firm shall have more than one designated BIC. A BIC shall not serve as BIC for more than one office unless each of those offices share the same physical office space and delivery address.

(b) Every sole proprietorship shall designate a BIC if the sole proprietorship:

- (1) engages in any transaction where a broker is required to deposit and maintain monies belonging to others in a trust account;
- (2) engages in advertising or promoting services as a broker in any manner; or
- (3) has one or more other brokers affiliated with the sole proprietorship in the real estate business.

(c) A licensed real estate firm shall not be required to have a BIC if it:

- (1) is organized for the sole purpose of receiving compensation for brokerage services furnished

by its qualifying broker through another firm or broker;

(2) is treated for tax purposes as a pass-through business by the United States Internal Revenue Service;

(3) has no principal or branch office; and

(4) has no licensed person associated with it other than its qualifying broker.

(d) A broker who maintains a trust or escrow account for the sole purpose of holding residential tenant security deposits received by the broker on properties owned by the broker in compliance with G.S. 42-50 shall not be required to be a BIC.

(e) In order for a broker to designate as a BIC for a sole proprietor, real estate firm, or branch office, a broker shall apply for BIC Eligible status by submitting an application on a form available on the Commission's website. The BIC Eligible status form shall include the broker's:

- (1) name;
- (2) license number;
- (3) telephone number;
- (4) email address;
- (5) criminal history and history of occupational license disciplinary actions;
- (6) certification of compliance with G.S. 93A-4.2, including that:

(A) his or her broker license is on active status;

(B) the broker has obtained at least two years of real estate brokerage experience equivalent to 40 hours per week within the previous five years or shall be a North Carolina licensed attorney with a practice that consisted primarily of handling real estate closings and related matters in North Carolina for three years immediately preceding application; and

(C) the broker completed the 12-hour Broker-in-Charge Course no earlier than one year prior to application and no later than 120 days after application; and

(7) signature.

(f) A broker who holds BIC Eligible status shall submit a form to become the designated BIC for a sole proprietor, real estate firm, or branch office. The BIC designation form shall include:

(1) the broker's:

- (A) name;
- (B) license number;
- (C) telephone number;
- (D) email address; and
- (E) criminal history and history of occupational license disciplinary actions; and

(2) the firm's:

- (A) name; and
- (B) license number, if applicable;

(g) A designated BIC shall:

- | | |
|---|---|
| <p>(1) assure that each broker affiliated at the office has complied with Rules .0503, .0504, and .0506 of this Subchapter;</p> <p>(2) notify the Commission of any change of firm's business address or trade name and the registration of any assumed business name adopted by the firm for its use;</p> <p>(3) be responsible for the conduct of advertising by or in the name of the firm at such office;</p> <p>(4) maintain the trust or escrow account of the firm and the records pertaining thereto;</p> <p>(5) retain and maintain records relating to transactions conducted by or on behalf of the firm, including those required to be retained pursuant to Rule .0108 of this Section;</p> <p>(6) supervise provisional brokers associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter;</p> <p>(7) supervise all brokers affiliated at the office with respect to adherence to agency agreement and disclosure requirements;</p> <p>(8) notify the Commission in writing that he or she is no longer serving as BIC of a particular office within 10 days following any such change;</p> <p>(9) complete the Commission's Basic Trust Account Procedures Course within 120 days of assuming responsibility for a trust account in accordance with G.S. 93A-6(g), however the BIC shall not be required to complete the course more than once in three years; and</p> <p>(10) supervise all unlicensed individuals employed at the office and ensure that unlicensed individuals comply with G.S. 93A-2(c)(6).</p> | <p>(2) fails to complete the 12-hour Broker-in-Charge Course pursuant to Paragraph (e) of this Rule;</p> <p>(3) fails to renew his or her broker license pursuant to Rule .0503 of this Subchapter, or the broker's license has been suspended, revoked, or surrendered; or</p> <p>(4) fails to complete the Broker-in-Charge Update Course and a four credit hour elective course pursuant to Rules .1702 and .1711 of this Subchapter, if applicable.</p> <p>(j) In order to regain BIC Eligible status after a broker's BIC Eligible status terminates, the broker shall complete the 12-hour Broker-in-Charge Course prior to application and then submit a BIC Eligible status form pursuant to Paragraph (e) of this Rule.</p> <p>(k) A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker-in-charge of a firm or office in North Carolina.</p> <p>(l) A broker shall not be granted BIC Eligible status or designated as BIC of a firm if there is a pending Commission investigation against the broker.</p> |
|---|---|
- (h) A broker holding BIC Eligible status shall take the Broker-in-Charge Update Course during the license year of designation, unless the broker has satisfied the requirements of Rule .1702 of this Subchapter prior to designation.
- (i) A broker's BIC Eligible status shall terminate if the broker:
- | | |
|--|--|
| <p>(1) made any false statements or presented any false, incomplete, or incorrect information in connection with an application;</p> | <p><i>History Note: Authority G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.2; 93A-9; 93A-38.5; Eff. September 1, 1983; Amended Eff. July 1, 2014; May 1, 2013; July 1, 2010; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1995; July 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2021; July 1, 2020; July 1, 2018.</i></p> |
|--|--|

21 NCAC 58A .0114 RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE STATEMENT

(a) Every owner of real property subject to a transfer of the type governed by Chapter 47E of the General Statutes shall complete the following Residential Property and Owners' Association Disclosure Statement and furnish a copy of the complete statement to a buyer in accordance with the requirements of G.S. 47E-4. The form shall bear the seal of the North Carolina Real Estate Commission and shall read as follows:

[N.C. REAL ESTATE COMMISSION SEAL]

**STATE OF NORTH CAROLINA
RESIDENTIAL PROPERTY AND OWNERS' Association DISCLOSURE STATEMENT**

Instructions to Property Owners

1. The Residential Property Disclosure Act (G.S. 47E)("Disclosure Act") requires owners of residential real estate (single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units) to furnish buyers a Residential Property and Owners' Association Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option, and sale under a lease with option to purchase where the tenant does not occupy or intend to occupy the dwelling. A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.

2. You must respond to each of the questions on the following pages of this form by filling in the requested information or by placing a check (✓) in the appropriate box. In responding to questions, you are only obligated to disclose information about which you have actual knowledge.
 - a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach a report from an attorney, engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
 - b. If you check "No," you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.
 - c. If you check "No Representation," you are choosing not to disclose the conditions or characteristics of the property, even if you have actual knowledge of them or should have known of them.
 - d. If you check "Yes" or "No" and something happens to the property to make your Disclosure Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the buyer a corrected Disclosure Statement or correct the problem.
3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Disclosure Statement to the buyers; and the broker must disclose any material facts about your property which he or she knows or reasonably should know, regardless of your responses on the Statement.
4. You must give the completed Disclosure Statement to the buyer no later than the time the buyer makes an offer to purchase your property. If you do not, the buyer can, under certain conditions, cancel any resulting contract (See **"Note to Buyers"** below). You should give the buyer a copy of the Disclosure Statement containing your signature and keep a copy signed by the buyer for your records.

Note to Buyers

If the owner does not give you a Residential Property and Owners' Association Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract without penalty to you as the buyer. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: _____
 Owner's Name(s): _____
Owner(s) acknowledge(s) having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: _____ Date _____, ____
 Owner Signature: _____ Date _____, ____
Buyers acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owners or owners' agents; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owners and not the owners' agents or subagents. Buyers are strongly encouraged to obtain their own inspections from a licensed home inspector or other professional. As used herein, words in the plural include the singular, as appropriate.

Buyer Signature: _____ Date _____, ____
 Buyer Signature: _____ Date _____, ____

Property Address/Description: _____

The following questions address the characteristics and condition of the property identified above about which the owner has actual knowledge. Where the question refers to "dwelling," it is intended to refer to the dwelling unit, or units if more than one, to be conveyed with the property. The term "dwelling unit" refers to any structure intended for human habitation.

	Yes	No	No Representation
1. In what year was the dwelling constructed? _____ Explain if necessary: _____			<input type="checkbox"/>
2. Is there any problem, malfunction or defect with the dwelling's foundation, slab, fireplaces/chimneys, floors, windows (including storm windows and screens), doors, ceilings, interior and exterior walls, attached garage, patio, deck or other structural components including any modifications to them?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The dwelling's exterior walls are made of what type of material? <input type="checkbox"/> Brick Veneer <input type="checkbox"/> Wood <input type="checkbox"/> Stone <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Concrete <input type="checkbox"/> Fiber Cement <input type="checkbox"/> Aluminum <input type="checkbox"/> Asbestos <input type="checkbox"/> Other _____ (Check all that apply)			<input type="checkbox"/>
4. In what year was the dwelling's roof covering installed? _____ (Approximate if no records are available.) Explain if necessary: _____			<input type="checkbox"/>
5. Is there any leakage or other problem with the dwelling's roof?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is there any water seepage, leakage, dampness or standing water in the dwelling's basement, crawl space, or slab?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Is there any problem, malfunction or defect with the dwelling's electrical system (outlets, wiring, panel, switches, fixtures, generator, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Is there any problem, malfunction or defect with the dwelling's plumbing system (pipes, fixtures, water heater, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Is there any problem, malfunction or defect with the dwelling's heating and/or air conditioning?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. What is the dwelling's heat source? <input type="checkbox"/> Furnace <input type="checkbox"/> Heat Pump <input type="checkbox"/> Baseboard <input type="checkbox"/> Other _____ (Check all that apply) Age of system: _____			<input type="checkbox"/>
11. What is the dwelling's cooling source? <input type="checkbox"/> Central Forced Air <input type="checkbox"/> Wall/Window Unit(s) <input type="checkbox"/> Other _____ (Check all that apply) Age of system: _____			<input type="checkbox"/>
12. What is the dwelling's fuel sources? <input type="checkbox"/> Electricity <input type="checkbox"/> Natural Gas <input type="checkbox"/> Propane <input type="checkbox"/> Oil <input type="checkbox"/> Other _____ (Check all that apply) If the fuel source is stored in a tank, identify whether the tank is <input type="checkbox"/> above ground or <input type="checkbox"/> below ground, and whether the tank is <input type="checkbox"/> leased by seller or <input type="checkbox"/> owned by seller. (Check all that apply)			<input type="checkbox"/>
13. What is the dwelling's water supply source? <input type="checkbox"/> City/County <input type="checkbox"/> Community System <input type="checkbox"/> Private Well <input type="checkbox"/> Shared Well <input type="checkbox"/> Other _____ (Check all that apply)			<input type="checkbox"/>
14. The dwelling's water pipes are made of what type of material? <input type="checkbox"/> Copper <input type="checkbox"/> Galvanized <input type="checkbox"/> Plastic <input type="checkbox"/> Polybutylene <input type="checkbox"/> Other _____			<input type="checkbox"/>

(Check all that apply)

- | | |
|---|--|
| 15. Is there any problem, malfunction or defect with the dwelling's water supply (including water quality, quantity or water pressure)? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 16. What is the dwelling's sewage disposal system? <input type="checkbox"/> Septic Tank <input type="checkbox"/> Septic Tank with Pump
<input type="checkbox"/> Community System <input type="checkbox"/> Connected to City/County System <input type="checkbox"/> City/County System available
<input type="checkbox"/> Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates State law])
<input type="checkbox"/> Other _____
(Check all that apply) | <input type="checkbox"/> |
| 17. If the dwelling is serviced by a septic system, do you know how many bedrooms are allowed by the septic system permit? If your answer is "Yes," how many bedrooms are allowed?
_____ <input type="checkbox"/> No records available. | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 18. Is there any problem, malfunction or defect with the dwelling's sewer and/or septic system? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 19. Is there any problem, malfunction or defect with the dwelling's central vacuum, pool, hot tub, spa, attic fan, exhaust fan, ceiling fans, sump pump, irrigation system, TV cable wiring or satellite dish, garage door openers, gas logs, or other systems? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 20. Is there any problem, malfunction or defect with any appliances that may be included in the conveyance (range/oven, attached microwave, hood/fan, dishwasher, disposal, etc.)? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 21. Is there any problem with present infestation of the dwelling, or damage from past infestation of wood destroying insects or organisms which has not been repaired? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 22. Is there any problem, malfunction or defect with the drainage, grading or soil stability of the property? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 23. Are there any structural additions or other structural or mechanical changes to the dwelling(s) to be conveyed with the property? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 24. Is the property to be conveyed in violation of any local zoning ordinances, restrictive covenants, or other land-use restrictions, or building codes (including the failure to obtain proper permits for room additions or other changes/improvements)? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 25. Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) located on or which otherwise affect the property? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 26. Is there any noise, odor, smoke, etc. from commercial, industrial or military sources which affects the property? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 27. Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 28. Is the property subject to any lawsuits, foreclosures, bankruptcy, leases or rental agreements, judgments, tax liens, proposed assessments, mechanics' liens, materialmens' liens, or notices from any governmental agency that could affect title to the property? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 29. Is the property subject to a flood hazard or is the property located in a federally-designated flood hazard area? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 30. Does the property abut or adjoin any private road(s) or street(s)? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |

31. If there is a private road or street adjoining the property, is there in existence any owners' association or maintenance agreements dealing with the maintenance of the road or street? ☐ ☐ ☐

If you answered "yes" to any of the questions listed above (1-31) please explain (attach additional sheets if necessary):

In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public agency, or by an attorney, engineer, land surveyor, geologist, pest control operator, contractor, home inspector, or other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.

The following questions pertain to the property identified above, including the lot to be conveyed and any dwelling unit(s), sheds, detached garages, or other buildings located thereon.

- | | Yes | No | No Representation |
|---|--------------------------|--------------------------|--------------------------|
| 32. Is the property subject to governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot or unit? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

If you answered "yes" to the question above, please explain (attach additional sheets if necessary):

- | | | | |
|---|--------------------------|--------------------------|--------------------------|
| 33. Is the property subject to regulation by one or more owners' association(s) including, but not limited to, obligations to pay regular assessments or dues and special assessments? If your answer is "yes," please provide the information requested below as to each owners' association to which the property is subject [insert N/A into any blank that does not apply]: (specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address and telephone number of the president of the owners' association or the association manager are _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|

(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address and telephone number of the president of the owners' association or the association manager are _____

*** If you answered "Yes" to question 33 above, you must complete the remainder of this Disclosure Statement. If you answered "No" or "No Representation" to question 33 above, you do not need to answer the remaining questions on this Disclosure Statement. Skip to the bottom of the last page and initial and date the page.**

- | | Yes | No | No Representation |
|---|--------------------------|--------------------------|--------------------------|
| 34. Are any fees charged by the association or by the association's management company in connection with the conveyance or transfer of the lot or property to a new owner? If your answer is "yes," please state the amount of the fees: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

- | | | | |
|--|--------------------------|--------------------------|--------------------------|
| 35. As of the date this Disclosure Statement is signed, are there any dues, fees or special assessment which have been duly approved as required by the applicable declaration or by-laws, and that are payable to an association to which the lot is subject? If your answer is "yes," please state the nature and amount of the dues, fees or special assessments to | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|

APPROVED RULES

which the property is subject:

36. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against or pending lawsuits involving the property or lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment: _____ ☐ ☐ ☐

37. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against or pending lawsuits involving the planned community or the association to which the property and lot are subject, with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the property and lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment: _____ ☐ ☐ ☐

38. Which of the following services and amenities are paid for by the owners' association(s) identified above out of the association's regular assessments ("dues")? (Check all that apply.)

	No Repre-		
	Yes	No	sentation
Management Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Building Maintenance of Property to be Conveyed			
Master Insurance			
Exterior Yard/Landscaping Maintenance of Lot to be Conveyed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Common Areas Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trash Removal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recreational Amenity Maintenance (specify amenities covered) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/>			
Pest Treatment/Extermination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Street Lights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Storm Water Management/Drainage/Ponds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Private Road Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parking Area Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gate and/or Security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other: (specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Buyer Initials and Date _____ Owner Initials and Date _____
Buyer Initials and Date _____ Owner Initials and Date _____

(b) The form described in Paragraph (a) of this Rule may be reproduced, but the text of the form shall not be altered or amended in any way.

(c) The form described in Paragraph (a) of this Rule as amended effective July 1, 2021, applies to all properties placed on the

market on or after July 1, 2021. The form described in Paragraph (a) of this Rule as amended effective July 1, 2018, applies to all properties placed on the market prior to July 1, 2021. If a corrected disclosure statement required by G.S. 47E-7 is prepared on or after July 1, 2021, for a property placed on the market prior to July

1, 2021, the form described in Paragraph (a) of this Rule as amended effective July 1, 2021, shall be used.

History Note: Authority G.S. 47E-4(b); 47E-4(b1); 93A-3(c); 93A-6;
Eff. October 1, 1998;
Amended Eff. July 1, 2014; January 1, 2013; January 1, 2012;
July 1, 2010; July 1, 2009; January 1, 2008; July 1, 2006;
September 1, 2002; July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2021; July 1, 2018.

21 NCAC 58A .0120 PROHIBITED ACTS

- (a) A broker shall not require or demand of any escrow agent or attorney that a broker's commission be split with or paid to another person or entity.
- (b) An affiliated broker shall not be paid a commission or referral fee directly by anyone other than their current BIC or the person who served as their BIC at the time of the transaction.
- (c) A broker shall not coerce, extort, collude, instruct, induce, bribe, or intimidate a service provider in a real estate transaction in order to influence or attempt to influence their findings, report, or decision. Service providers include, but are not limited to, appraisers, attorneys, inspectors, financial lenders, and contractors.
- (d) A broker shall not conduct brokerage activities or otherwise promote their status as a real estate broker in any manner that discriminates on the basis of race, color, religion, national origin, sex, familial status, or disability.

History Note: Authority G.S. 93A-3(c); 93A-6;
Eff. July 1, 2021.

21 NCAC 58A .0503 LICENSE RENEWAL

- (a) All real estate licenses issued by the Commission under G.S. 93A, Article 1 shall expire on June 30 following issuance. Any broker desiring renewal of his or her license shall renew on the Commission's website within 45 days prior to license expiration and shall submit a renewal fee of forty-five dollars (\$45.00).
- (b) During the renewal process, every individual broker shall provide an email address to be used by the Commission. The email address may be designated by the broker as private in order to be exempt from public records disclosures pursuant to G.S. 93A-4(b2).
- (c) During the renewal process, every designated broker-in-charge shall disclose:
 - (1) each federally insured depository institution lawfully doing business in this State where the trust account(s) for the broker-in-charge or the entity for which the broker-in-charge is designated is held, if applicable; and
 - (2) any criminal conviction or occupational license disciplinary action that occurred within the previous year.

History Note: Authority G.S. 93A-3(c); 93A-4; 93A-6; 93A-38.5;
Eff. February 1, 1976;

Readopted Eff. September 30, 1977;
Amended Eff. July 1, 1994; February 1, 1991; February 1, 1989;
Temporary Amendment Eff. April 24, 1995 for a period of 180
days or until the permanent rule becomes effective, whichever is
sooner;
Amended Eff. July 1, 2017; July 1, 2014; April 1, 2013; April 1,
2006; January 1, 2006; July 1, 2004; December 4, 2002; April 1,
1997; July 1, 1996; August 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2021; July 1, 2018.

**21 NCAC 58H .0210 DENIAL, WITHDRAWAL, OR
 TERMINATION OF EDUCATION PROVIDER
 CERTIFICATION**

(a) The Commission may deny or withdraw certification of an education provider or suspend, revoke, or deny renewal of the certification of an education provider upon finding that an education provider:

- (1) was found by a court or government agency of competent jurisdiction to have violated any state or federal law;
- (2) made any false statements or presented any false, incomplete, or incorrect information in connection with an application;
- (3) failed to provide or provided false, incomplete, or incorrect information in connection with any report the education provider is required to submit to the Commission;
- (4) presented to its students or prospective students false or misleading information relating to its instructional program, to the instructional programs of other institutions, or related to employment opportunities;
- (5) collected money from students but refused or failed to provide the promised instruction;
- (6) failed to submit the per student fee as required by G.S. 93A-4(a2) or 93A-38.5(e).
- (7) refused at any time to permit authorized representatives of the Commission to inspect the education provider's facilities or audit its courses;
- (8) or education director violated the rules of this Subchapter or was disciplined by the Commission under G.S. 93A-6;
- (9) obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;
- (10) failed to provide to the Commission a written plan describing the changes the education provider made or intends to make in its instructional program including instructors, course materials, methods of student evaluation, and completion standards to improve the performance of the education provider's students on the license examination within 30 days of the Commission's request during an investigation or application process;

- (11) provided the Commission a fee that was dishonored by a bank or returned for insufficient funds;
- (12) Certificate of Authority was revoked, subject to a revenue suspension, or subject to administrative dissolution by the NC Secretary of State;
- (13) failed to utilize course materials pursuant to Rule .0205 of this Section;
- (14) failed to submit reports pursuant to Rule .0207 of this Section;
- (15) provided false, incomplete, or misleading information relating to real estate licensing, education matters, or the broker's education needs or license status;
- (16) discriminated in its admissions policy or practice against any person on the basis of age, sex, race, color, national origin, familial status, handicap status, or religion; or
- (17) refused or failed to comply with the provisions of this Subchapter.

(b) A broker shall be subject to discipline pursuant to G.S. 93A-6 if the broker engages in dishonest, fraudulent, or improper conduct in connection with the operations of an education provider if that broker:

- (1) has an ownership interest in the education provider;
- (2) is the education director; or
- (3) is an instructor for an education provider.

(c) The Commission shall withdraw an education provider's certification when its annual License Examination Performance Record fails to exceed 40 percent in each of the previous two license years. Following withdrawal, the education provider shall be ineligible to apply for certification for a period of one year.

(d) When ownership of a certified education provider is transferred and the education provider ceases to operate as the certified entity, the certification is not transferable and shall terminate on the effective date of the transfer. All courses shall be completed by the effective date of the transfer. The transferring owner shall report course completion(s) to the Commission. The new entity shall obtain an original certification for each location where the education provider will conduct courses as required by G.S. 93A-34 and Rule .0202 of this Section prior to advertising courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any education provider operations.

History Note: Authority G.S. 93A-4(d); 93A-34(c); 93A-35(c); 93A-38;

Eff. July 1, 2017;

Amended Eff. July 1, 2021; July 1, 2020.

21 NCAC 58H .0303 DENIAL OR WITHDRAWAL OF INSTRUCTOR APPROVAL

(a) The Commission may deny or withdraw approval of any instructor applicant or approved instructor upon finding that the instructor or instructor applicant:

- (1) has failed to meet the criteria for approval described in Rule .0302 of this Section or the

criteria for renewal of approval described in Rule .0306 of this Section at the time of application or at any time during an approval period;

- (2) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval or any report that is required to be submitted to the Commission;
- (3) has failed to submit to the Commission any report, course examination, or video recording required by these Rules;
- (4) has failed to demonstrate the ability to teach a Prelicensing, Postlicensing, or Update course in a manner consistent with the course materials;
- (5) taught a Prelicensing course and failed to provide to the Commission a written plan describing the changes the instructor has made or intends to make in his or her instructional program to improve the performance of the instructor's students on the license examination within 30 days of the Commission's request during an investigation or application process;
- (6) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;
- (7) has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;
- (8) has obtained, used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;
- (9) has failed to take steps to protect the security of end-of-course examinations;
- (10) failed to take any corrective action set out in the plan described in Subparagraph (a)(5) of this Rule or as otherwise requested by the Commission;
- (11) engaged in any other improper, fraudulent, or dishonest conduct;
- (12) failed to utilize course materials pursuant to Rule .0205 of this Subchapter;
- (13) has taught or conducted a course in any manner that discriminated against any person on the basis of age, sex, race, color, national origin, familial status, handicap status, or religion; or
- (14) failed to comply with any other provisions of this Subchapter.

(b) The Commission shall withdraw an instructor's approval when their annual License Examination Performance Record fails to exceed 40 percent in each of the previous two license years. Following withdrawal, the instructor shall be ineligible to apply for approval for a period of one year.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34;

Eff. July 1, 2017;

Amended Eff. July 1, 2021; July 1, 2020.

CHAPTER 62 – BOARD OF ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS

21 NCAC 62 .0407 RENEWAL

(a) Applications for renewal shall be filed with the Board on a form provided by the Board and available from the Board website at: www.rsboard.com or from the Division of Public Health, 1931 Mail Service Center, Raleigh, NC 27699- 1931. The renewal application shall be available by October 1 of each year. The renewal form may also be generated by the Registered Sanitarian Training and Authorization (RSTAS) computer system at: <https://rstas.dhhs.state.nc.us/>. The renewal application shall include the following information:

- (1) registrant's name, REHS/REHSI number, home address, telephone, email;
- (2) registrant's employer name, address, telephone, email, position title;
- (3) continuing education completed by registrant in current year by course number, date, contact hours attended; and
- (4) information regarding their completion of NC Public Health Law in accordance with Paragraph (e) of this Rule.

(b) The renewal application shall be completed and signed by the applicant.

(c) Renewal fees shall be paid in accordance with Rule .0405(a)(5) of this Section.

(d) Registered environmental health specialists or registered environmental health specialists interns who fail to renew by December 31 shall be notified by the Board that their registration has expired and that they shall not practice as a registered environmental health specialist or a registered environmental health specialists intern until they have met the requirements for renewal.

(e) Environmental health specialist interns and other persons applying for new registrations with the board shall take an environmental health law course based on North Carolina laws and rules with at least 15 contact hours approved by the Board. This course shall be completed within the first four years of the date of most recent registration by the Board. This timeframe shall be extended by one additional year for anyone whose fourth year occurs in 2020.

(f) Registered environmental health specialists and registered environmental health specialists interns shall complete a minimum of 15 contact hours of continuing education acceptable to the Board each year, except the 15 hours shall not be required for the year ending December 31, 2020. Continuing education acceptable to the Board includes:

- (1) the specialized training course required in Rule .0411 of this Section;
- (2) District Environmental Health Section Educational meetings;
- (3) professional association courses and educational meetings;
- (4) seminars or courses offered by the North Carolina State of Practice Committee;

(5) completion of a job-related course offered by a college or university accredited by the Council of Higher Education Accreditation with the hours credited for the year that the course is completed;

(6) completion of a job-related course offered by the Centers for Disease Control and Prevention, the Food and Drug Administration, or the Environmental Protection Agency;

(7) other practice-related training that:

- (A) is technical in nature, related to the environment, environmental health or improving the practice of environmental health;
- (B) is relevant to the actual job being performed by the participants or applicant;
- (C) includes a method for determining the number of hours spent;
- (D) includes a method of documentation for verification of completion;
- (E) is available to all registered environmental health specialists and environmental health specialist interns; and
- (F) has been granted approval by the Board based upon this Subparagraph.

(g) Registrations that have expired may be renewed within 12 months after expiration upon submittal of application and payment of the renewal fee. The applicant shall provide verification to the Board that continuing education contact hours were obtained during the year since the expiration to comply with the requirements of this Section. Registrations that have expired for more than 12 months may not be renewed.

(h) Interns that are no longer employed in the field of environmental health in North Carolina shall not be eligible to renew.

(i) A registered environmental health specialist or a registered environmental health specialist intern in good standing whose active military service has impaired their ability to obtain the continuing education requirements in Paragraph (f) of this Rule are exempt from the continuing education requirement if written orders from their military unit are provided to the Board. In addition, the renewal fee is waived for each calendar year the environmental health specialist is on active duty.

(j) A registered environmental health specialist or registered environmental health specialist intern who is disabled may request a variance in continuing education hours during the period of the disability. The Board may grant or deny requests for variance in continuing education hours based on a disabling condition on a case by case basis, taking into consideration the particular disabling condition involved and its effect on the registered environmental health specialist or registered environmental health specialist intern's ability to complete the required hours. In considering the request, the Board may require additional documentation substantiating any specified disability.

(k) A maximum of five contact hours of approved continuing education, that is in excess of the required 15 contact hours, may be applied toward the continuing education requirements for the

following year. For 2020, registrants who completed contact hours, even though continuing education was not required for that year, may carry forward a maximum of five hours.

History Note: Authority G.S. 90A-57; 90A-63; 93B-15;

Eff. February 1, 1976;

Readopted Eff. December 22, 1978;

Amended Eff. July 1, 2010; November 1, 1994; May 1, 1990; April 1, 1989; February 1, 1983;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Emergency Amendment Eff. April 28, 2020;

Temporary Amendment Eff. June 26, 2020;

Amended Eff. July 1, 2021.

"Orientation and Initial Internship Training for Environmental Health Interns" offered by the Division of Public Health at the centralized training site within 18 months of registration as a registered environmental health specialist intern.

History Note: Authority G.S. 90A-50; 90A-51; 90A-53; 90A-57;

Eff. February 1, 1983;

Amended Eff. July 1, 2010; November 1, 1994; May 1, 1990;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Emergency Amendment Eff. April 28, 2020;

Temporary Amendment Eff. June 26, 2020;

Amended Eff. July 1, 2021.

21 NCAC 62 .0411 SPECIALIZED TRAINING

Every applicant for registration as a registered environmental health specialist intern shall complete the course entitled

This Section contains information for the meeting of the Rules Review Commission August 19, 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

August 19, 2021 September 16, 2021
October 21, 2021 November 18, 2021

AGENDA**RULES REVIEW COMMISSION****THURSDAY, AUGUST 19, 2021, 9:00 A.M.****1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Social Services Commission— 10A NCAC 71K .0101, .0102; 71L .0101, .0102, .0103, .0104, .0105, .0106, and .0107; 71O .0101, .0102, .0103, and .0104; 71U .0101, .0201, .0203, .0204, .0205, .0206, .0207, .0209, .0210, .0211, .0212, .0213, .0214, .0215, .0216, .0302, .0303, .0401, .0402; 71V .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0201, .0202, .0203, .0204, and .0205; 71W .0101, .0302, .0303, .0304, .0403, .0404, .0405, .0407, .0408, .0410, .0412, .0413, .0502, .0503, .0601, .0602, .0603, .0604, .0605, .0606, .0607, .0704; 72 .0102 (May)
 - B. Coastal Resources Commission - 15A NCAC 07H .0304, .0312; 07J .1201, .1202, .1203, .1204, .1205, .1206, .1301, .1302, .1303 (Reeder)
 - C. Veterinary Medical Board - 21 NCAC 66 .0211 (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between June 22, 2021 through July 20, 2021
 - Board of Agriculture (May)
 - Credit Union Division (Reeder)
 - Department of Natural and Cultural Resources (May)
 - State Board of Elections (Reeder)
 - Coastal Resources Commission (Reeder)
 - Department of Transportation - Division of Motor Vehicles (May)
 - Board of Cosmetic Art Examiners (May)
 - Board of Nursing (May)
 - Building Code Council (Reeder)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
- VII. Commission Business

- Next meeting: September 16, 2021
-

Commission Review
Log of Permanent Rule Filings
June 22, 2021 through July 20, 2021

AGRICULTURE, BOARD OF

The rules in Chapter 60 are for the division of forest resources.

The rules in Subchapter 60B concern the administration (.0100) of division programs including forest fire control (.0200); pest control (.0300); forest management (.0400); forest tree seedlings (.0500); custom forestry services (.0600); forest development program (.0700); urban and community forestry (.0800); NC prescribed burning act (.0900); and Dupont State Forest (.1000).

<u>Scope</u>	02	NCAC	60B	.1001
Amend*				
<u>Definitions of Terms</u>	02	NCAC	60B	.1002
Amend*				
<u>Permits</u>	02	NCAC	60B	.1003
Amend*				
<u>Rock or Cliff Climbing and Rappelling</u>	02	NCAC	60B	.1004
Amend*				
<u>Bathing or Swimming</u>	02	NCAC	60B	.1005
Amend*				
<u>Hunting</u>	02	NCAC	60B	.1006
Amend*				
<u>Fishing</u>	02	NCAC	60B	.1007
Amend*				
<u>Animals at Large</u>	02	NCAC	60B	.1008
Amend*				
<u>Boating</u>	02	NCAC	60B	.1009
Amend*				
<u>Camping</u>	02	NCAC	60B	.1010
Amend*				
<u>Sports and Games</u>	02	NCAC	60B	.1011
Amend*				
<u>Horses</u>	02	NCAC	60B	.1012
Amend*				
<u>Bicycles</u>	02	NCAC	60B	.1013
Amend*				
<u>Skates, Blades and Boards</u>	02	NCAC	60B	.1014
Amend*				
<u>Explosives</u>	02	NCAC	60B	.1015
Amend*				
<u>Fires and Grills</u>	02	NCAC	60B	.1017
Amend*				
<u>Disorderly Conduct</u>	02	NCAC	60B	.1018
Amend*				
<u>Intoxicating Beverages and Drugs</u>	02	NCAC	60B	.1019
Amend*				

<u>Damage to Buildings, Structures and Signs</u>	02	NCAC	60B	.1020
Amend*				
<u>Commercial Enterprises</u>	02	NCAC	60B	.1021
Amend*				
<u>Noise Regulations</u>	02	NCAC	60B	.1022
Amend*				
<u>Alms and Contributions</u>	02	NCAC	60B	.1024
Amend*				
<u>Aviation</u>	02	NCAC	60B	.1025
Amend*				
<u>Expulsion</u>	02	NCAC	60B	.1026
Amend*				
<u>Motorized Vehicles</u>	02	NCAC	60B	.1027
Amend*				
<u>Flowers, Plants, Minerals, Etc</u>	02	NCAC	60B	.1028
Amend*				
<u>Trash and Debris</u>	02	NCAC	60B	.1029
Amend*				
<u>Fees and Charges</u>	02	NCAC	60B	.1030
Amend*				
<u>Hours of Operation</u>	02	NCAC	60B	.1031
Amend*				
<u>Enforcement</u>	02	NCAC	60B	.1032
Amend*				
<u>Parking</u>	02	NCAC	60B	.1033
Adopt*				
<u>Abandoned Property</u>	02	NCAC	60B	.1034
Adopt*				
<u>Minors</u>	02	NCAC	60B	.1035
Adopt*				
<u>Firearms</u>	02	NCAC	60B	.1036
Adopt*				

CREDIT UNION DIVISION

The rules in Chapter 6 are from the Credit Union Division.

The rules in Subchapter 6C concern credit unions and include general information (.0100); organization of credit unions (.0200); basic internal controls: accounting procedures and operation standards for state-chartered credit unions (.0300); loans (.0400); impairment and insolvency (.0500); dividends deposits and interest rebate (.0600); accounts (.0700); reports to administrator (.0800); pension plans (.0900); retention of records (.1000); forms used by credit union division (.1100); investments (.1200); reserves (.1300); and signature guarantee services.

<u>Management Duties</u>	04	NCAC	06C	.0304
Amend*				
<u>Independent Audits</u>	04	NCAC	06C	.0305
Amend*				

NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF

The rules in Chapter 14 concern NC zoological park regulations.

The definitions for the Chapter are set out in Subchapter 14A.

<u>Definitions</u>	07	NCAC	14A	.0101
Amend*				
The rules in Subchapter 14B are general provisions that concern preservation of the zoo (.0100); refuse and rubbish (.0200); traffic and parking (.0300); firearms: fires: etc. (.0400); disorderly conduct: public nuisance: etc. (.0500); commercial enterprises: advertising: meetings: exhibitions: etc. (.0600); and miscellaneous rules (.0700).				
<u>Firearms</u>	07	NCAC	14B	.0401
Readopt with Changes*				
<u>Animals at Large</u>	07	NCAC	14B	.0504
Readopt with Changes*				
<u>Photographs</u>	07	NCAC	14B	.0602
Readopt/Repeal*				
<u>Use of Facilities and Grounds</u>	07	NCAC	14B	.0605
Readopt with Changes*				
<u>ALMS and Contributions</u>	07	NCAC	14B	.0606
Readopt with Changes*				
<u>Soliciting Donations: Distributing Literature: Gifts</u>	07	NCAC	14B	.0607
Readopt/Repeal*				
<u>North Carolina Zoological Park: Admission Fees</u>	07	NCAC	14B	.0706
Amend*				

ELECTIONS, STATE BOARD OF

The rules in Chapter 1 are departmental rules.

<u>Political Party Formation, Termination, and Reinstatement</u>	08	NCAC	01	.0107
Adopt*				

The rules in Chapter 9 concern conduct of vote recounts by county boards of elections.

<u>General Guidelines</u>	08	NCAC	09	.0106
Amend*				
<u>First Recount</u>	08	NCAC	09	.0107
Amend*				
<u>Recount of Direct Record Electronic Voting Machines</u>	08	NCAC	09	.0108
Repeal*				
<u>Guidelines for Determining Voter Intent</u>	08	NCAC	09	.0109
Adopt*				

The rules in Chapter 20 concern elections observers.

<u>Election Observers</u>	08	NCAC	20	.0101
Amend*				

The rules in Chapter 21 are department rules concerning reporting (.0100) noncompliance (.0200); use of contributions (.0300); examinations (.0400); and disclosure requirements for media advertisements (.0500).

<u>Reporting of Independent Expenditures</u>	08	NCAC	21	.0102
Amend*				
<u>Reporting of Special Contributions</u>	08	NCAC	21	.0103
Amend*				
<u>Reporting of Electioneering Communications</u>	08	NCAC	21	.0104
Amend*				
<u>Electronic Signature</u>	08	NCAC	21	.0107
Adopt*				

<u>Procedures for Closing a Committee</u> Adopt*	08	NCAC	21	.0202
<u>Certification of Threshold</u> Adopt*	08	NCAC	21	.0203
<u>Examination by the State Board of Elections</u> Adopt*	08	NCAC	21	.0401
<u>Billboards</u> Adopt*	08	NCAC	21	.0501

COASTAL RESOURCES COMMISSION

The rules in Subchapter 7M concern general policy guidelines for the coastal area including purpose and authority (.0100); shoreline erosion response policies (.0200); shorefront access policies (.0300); coastal energy policies (.0400); post-disaster policies (.0500); floating structure policies (.0600); mitigation policy (.0700); coastal water quality policies (.0800); policies on use of coastal airspace (.0900); policies on water and wetland based target areas for military training activities (.1000); policies on beneficial use and availability of materials resulting from the excavation or maintenance of navigational channels (.1100); and policies on ocean mining (.1200).

<u>Declaration of General Policy</u> Readopt without Changes*	15A	NCAC	07M	.0301
<u>Definitions</u> Readopt without Changes*	15A	NCAC	07M	.0302
<u>Standards for Public Access</u> Readopt without Changes*	15A	NCAC	07M	.0303
<u>Local Government and State Involvement in Access</u> Readopt without Changes*	15A	NCAC	07M	.0306
<u>Eligibility, Selection Criteria and Matching Requirements</u> Readopt without Changes*	15A	NCAC	07M	.0307
<u>Public Involvement/Notice</u> Readopt without Changes*	15A	NCAC	07M	.0308

TRANSPORTATION - MOTOR VEHICLES, DIVISION OF

The rules in Subchapter 3D are from the enforcement section and include general information (.0100); motor vehicle dealer, sales, distributor and factory representative licenses (.0200); motor vehicle thefts (.0300); notice of sale and stored vehicles (.0400); general information regarding safety inspection of motor vehicles (.0500); weight of vehicles and registration enforcement (.0600); approval of motor vehicles safety equipment (.0700); safety rules and regulations (.0800); and approval of sun screening devices (.0900).

<u>Forms and Publications</u> Readopt/Repeal*	19A	NCAC	03D	.0102
<u>Conditions for Issuing Temporary Markers by a Dealer</u> Amend*	19A	NCAC	03D	.0221
<u>Dealer Plates</u> Readopt without Changes*	19A	NCAC	03D	.0223
<u>Illegal Use of Dealer Plates</u> Amend*	19A	NCAC	03D	.0224
<u>Vehicles Offered for Sale Owned by Dealership</u> Readopt without Changes*	19A	NCAC	03D	.0225
<u>Vehicles Offered for Sale on Consignment</u> Amend*	19A	NCAC	03D	.0226
<u>Vehicles Offered for Sale on a Floor Plan Lien</u> Readopt without Changes*	19A	NCAC	03D	.0227
<u>Corp. Surety/Bonds: Mobile/Manufactured Home Dealers</u>	19A	NCAC	03D	.0229

Readopt without Changes*				
<u>Unclaimed Motor Vehicle</u>	19A	NCAC	03D	.0402
Readopt without Changes*				
<u>Sale of Vehicle to Satisfy Storage or Mechanic's Lien</u>	19A	NCAC	03D	.0403
Readopt without Changes*				
<u>Sale of Motor Vehicle Under Judicial Proceedings</u>	19A	NCAC	03D	.0404
Readopt without Changes*				
<u>Sale of Abandoned Vehicle</u>	19A	NCAC	03D	.0405
Readopt without Changes*				
<u>Definitions</u>	19A	NCAC	03D	.0517
Readopt without Changes*				
<u>Licensing of Safety or Emissions Inspection Stations</u>	19A	NCAC	03D	.0518
Readopt without Changes*				
<u>Stations</u>	19A	NCAC	03D	.0519
Readopt without Changes*				
<u>Mechanic Requirements</u>	19A	NCAC	03D	.0520
Readopt without Changes*				
<u>Licensing Requirements</u>	19A	NCAC	03D	.0521
Readopt without Changes*				
<u>Denial, Suspension or Revocation of Licenses</u>	19A	NCAC	03D	.0522
Readopt without Changes*				

COSMETIC ART EXAMINERS, BOARD OF

The rules in Subchapter 14A are the Cosmetic Art Board of Examiners departmental rules including organizational rules (.0100); and license renewal waiver for armed forces (.0400).

<u>Address</u>	21	NCAC	14A	.0104
Amend*				
<u>Fees</u>	21	NCAC	14A	.0404
Amend*				

The rules in Subchapter 14H are sanitation rules for both operators and facilities including sanitation (.0100); shop licensing and physical dimensions (.0200); cosmetic art shop and equipment (.0300); sanitation procedures and practices (.0400); and enforcement, maintenance of licensure (.0500).

<u>Disinfection Procedures</u>	21	NCAC	14H	.0403
Amend*				

The rules in Subchapter 14T concern cosmetic art schools including the scope of the rules and school applications (.0100); physical requirements for cosmetic art schools (.0200); school equipment and supplies (.0300); student equipment (.0400); record keeping (.0500); curricula for all cosmetic art disciplines (.0600); school licensure, operations, closing and relocating schools (.0700); school inspections (.0800); and disciplinary actions (.0900).

<u>All Cosmetic Art Schools</u>	21	NCAC	14T	.0201
Amend*				
<u>Permanent Records, Forms and Documentation</u>	21	NCAC	14T	.0502
Amend*				
<u>Additional Hours</u>	21	NCAC	14T	.0616
Amend*				
<u>School Approval Changes and School Closing</u>	21	NCAC	14T	.0706
Amend*				

NURSING, BOARD OF

The rules in Chapter 36 include rules relating to general provisions (.0100); licensure (.0200); approval of nursing programs (.0300); unlicensed personnel and nurses aides (.0400); professional corporations (.0500); articles of organization (.0600); nurse licensure compact (.0700); and approval and practice parameters for nurse practitioners (.0800).

<u>Administration</u>	21	NCAC	36	.0317
Amend*				
<u>Faculty</u>	21	NCAC	36	.0318
Amend*				

BUILDING CODE COUNCIL

2020 NC Electrical Code
Adopt*

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	DOJ	03447	6/14/2021	Christopher Lee Maness	v.	NC Sheriffs Education and Training Standards Commission	May
20	DOJ	03914	6/15/2021	Robert Joseph Brewington	v.	NC Criminal Justice Education and Training Standards Commission	Lassiter
20	DOJ	04027	6/25/2021	Heather Chatel Blair	v.	NC Sheriffs Education and Training Standards Commission	Sutton
20	DOJ	05455	6/10/2021	Jose Daniel Palma	v.	NC Sheriffs Education and Training Standards Commission	May
21	DOJ	00829	6/22/2021	Darren Tyree Taylor	v.	NC Sheriffs Education and Training Standards Commission	Byrne
20	DSC	02922	6/4/2021	Timothy C Roper	v.	North Carolina Department of Public Safety	Bawtinheimer
19	DST	05261	7/30/2020; 6/24/2021	Kirk Justin Barefoot	v.	NC Retirement Systems Division	Bawtinheimer
21	DST	00090	6/15/2021	Evelyn P Hammond	v.	North Carolina Total Retirement Plans	Bawtinheimer
20	INS	02078	6/2/2021	Dr James Anthony McKernan Professor	v.	The North Carolina State Health Plan for Teachers and State Employees	Ward
21	INS	01323	6/29/2021	Rhonda Russell-Smith	v.	North Carolina State Health Plan	Byrne
				<u>Unpublished</u>			
21	ABC	01833	6/4/2021	NC Alcoholic Beverage Control Commission	v.	Express Mini Mart 1 Inc T/A Express Mini Mart 1	Lassiter

CONTESTED CASE DECISIONS

21	ABC	01901	6/14/2021	NC Alcoholic Beverage Control Commission	v.	Smokers Post LLC T/A Smokers Post	Bawtinheimer
20	CPA	02840	5/12/2021; 6/30/2021	NC State Board of Certified Public Accountant Examiners	v.	Leon Little Rives II #29505	Bawtinheimer
20	CPS	04557	6/30/2021	Johnathan Adams	v.	Victims Compensation Commission	Mann
21	CPS	01871	6/9/2021	Marion Lamont Sherrod Jr agent for Marion Lamont Sherrod	v.	North Carolina Department of Adult Corrections/Public Safety	Byrne
20	CSE	04195	6/8/2021	William Glasson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Turrentine
20	CSE	04292	6/16/2021	Kevin S Davenport	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Turrentine
20	CSE	04361	6/21/2021	Michael Smith	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Turrentine
20	CSE	04393	6/25/2021	Kenneth D White	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
20	CSE	04396	6/28/2021	Jaime Arturo Alejos Mejia	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
20	CSE	04518	6/28/2021	Isaiah Callands	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
20	CSE	04693	6/30/2021	Carter Ryan Manley	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinheimer
20	CSE	04917	6/9/2021	Byron D Black	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	05178	6/9/2021	Justin Tyler Garrett	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	05320	6/14/2021	Rodrigo Alberto Conde	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
21	CSE	01299	6/2/2021	Travis L Davidson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
21	DHR	01051	6/30/2021	Jennifer Jimenez	v.	DSS	Mann
21	DHR	01676	6/2/2021	Sean Hawkins	v.	Health Care Personnel Registry	May
21	DHR	01898	6/11/2021	Aaliyah Taylor	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Bawtinheimer
21	DHR	02116	6/30/2021	Tom LaGarde Haw River Ballroom	v.	NC Department of Health and Human Services Division of Public Health	Mann

CONTESTED CASE DECISIONS

21	DOL	01831	6/30/2021	Pani Verma	v.	DOL	Mann
21	DOT	01593	6/30/2021	Benjamin Riley Pierce	v.	NC Department of Transportation	Mann
21	DSA	01505	6/10/2021	Kinetic Minds Inc	v.	NC Office of the State Auditor	Lassiter
21	EDC	02118	6/14/2021	Essie Mae Kiser Foxx Charter School	v.	North Carolina State Board of Education et al	May
21	INS	01553	6/24/2021	Chelsea McLean	v.	North Carolina Department of State Treasurer	Malherbe
21	INS	01794	6/14/2021	Cailisha L Petty	v.	North Carolina State Health Plan for Teachers and State Employees	May
21	MIS	01325	6/11/2021	Nigel Rankin	v.	Guilford County Courthouse Angela Fox Department of Social Services Camelia K Smith & Paige Gilliard Childrens Law Center of Central North Carolina Jessica Stone Brian Hogan	Mann
21	MIS	01326	6/2/2021	Trisha White	v.	Sheriffs Office Harvey David Legrant Jr Forsyth County Courthouse - Family Court C District Logan T Burke Susan Frye David Sipprell Lawrence J Fine Lisa Menfee Shea Bree Ward Blalock	Mann
21	MIS	01442	6/15/2021	Jennifer and Eliseo Contreras Jimenez	v.	Department of Social Services Children and Families of Forsyth County	Mann
21	OSP	01243	6/7/2021	Anastahia Johnson	v.	East Carolina University	Turrentine
21	OSP	01471	6/22/2021	Jason Yoder	v.	NC Department of Public Safety	Mann
21	SOS	01555	6/30/2021	Jordan P Archer (The Archer Foundation)	v.	NC Dpt of the Secretary of State	Mann